

कात्यायनस्मृतिसारोद्धारः

OR

KĀTYĀYANASMṚTI

ON

VYAVAHĀRA (LAW AND PROCEDURE)

Text (reconstructed), Translation, Notes and Introduction

(*Reprint from the Hindu Law Quarterly, Bombay*)

BY

P. V. Kane, M. A., LL. M.,

Advocate, High court, Bombay; Vice-President and Fellow, Royal Asiatic Society, Bombay Branch; author of 'History of Sanskrit Poetics', 'History of Dharmas'āstra' &c.

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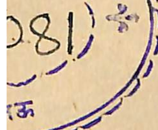
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PREFACE

While engaged in writing a history of dharmaśāstra, it occurred to me several years ago that it would be a very useful and interesting thing if I culled together from the several *nibandhas* the quotations from the dharmasūtra of Śaṅkha-likhita, that of Hārīta and the smṛti of Kātyāyana (on vyavahāra) and reconstructed these works. The former I published in the Annals of the Bhandarkar Oriental Institute at Poona (vide volumes VII–VIII) and the latter is now offered here. Kātyāyana represents the high watermark of smṛti literature on judicial procedure and the substantive law of inheritance, contracts &c. In the following pages about one thousand verses of Kātyāyana on vyavahāra will be found collected from about a score of Sanskrit commentaries and digests and presented under appropriate topics. It is further proposed to translate these verses into English, to add explanatory and illustrative notes, to point out the provisions of the modern Indian Statute Law wherever the parallelisms are striking and to indicate the important cases wherein the texts of Kātyāyana have been relied on. Dr. Jolly intended to publish a similar restoration of Kātyāyana, but did not carry out his intentions. Mr. Narayan Chandra Bandopadhyaya published about 800 verses of Kātyāyana at Calcutta in 1927. But he left the work incomplete in several respects. He collected passages from five works only, viz. the Dāya-

bhāga, the Vivādaratnākara, the Smṛticandrikā, the Parāśara-Mādhavīya and the Vīramitrodaya. He did not cast his net over a wide area and so his restoration is not as thorough as could be wished. Besides he did not publish a translation nor did he append explanatory notes. It is my intention to add also an introduction on the age of Kātyāyana and his importance in the ancient Hindu Law. In my history of Dharmaśāstra, which will be published in a few weeks, these topics have been dealt with (at pp. 213-221), but I propose to enter into greater details in the introduction to this work. References have been given as to each verse and important readings have been pointed out. I hope that this work on which I have spent much of my time will be found useful and suggestive to all those who are interested in the development of Hindu Law and in the study of comparative jurisprudence.

The system of transliteration adopted here is that of the Bhandarkar Oriental Institute. The works consulted, the editions used and the abbreviations employed in the notes to the text are noted below.

P. V. Kane.

BIBLIOGRAPHY AND ABBREVIATIONS

अपरार्क—commentary of Aparārka on the Yājñavalkyasmṛti (published by the Ānandāśrama Press, Poona)

कुल्लूक—commentary of कुल्लूक on मनुस्मृति (Nirṇayasāgara edition).

कृत्यकल्पतरु—Ms of the कृत्यकल्पतरु or कल्पतरु of लक्ष्मीधर on राजधर्म from the India Office collection and a Ms of a fragment of the व्यवहार portion in the Benares Sanskrit College.

टोडरानन्द—Ms in the Deccan College collection (now at the Bhandarkar Institute) of the portion on vyavahāra, called Vyavahārasaukhya.

दायतत्त्व of रघुनन्दन (printed by Jivananda).

दायभाग of जीमूतवाहन (Jivananda's edition, 1893).

परा. मा. = पराशरमाधवीय (vol. III.) – com. of माधवाचार्य on the पराशरस्मृति (Bombay Sanskrit Series edition).

मद. पा. = मदनपारिजात (ed. in Bibliotheca Indica series, Calcutta).

मिता० = मिताक्षरा of विज्ञानेश्वर, a com. on याज्ञवल्क्यस्मृति.

मेधा. = भाष्य of मेधातिथि on मनुस्मृति (ed. by Mr. J. R. Gharpure).

राज. र. = राजनीतिरत्नाकर of चण्डेश्वर edited by Mr. K. P. Jayasval, Patna.

वि. चि. = विवादचिन्तामणि of वाचस्पतिमिश्र (Calcutta edition of 1837).

वि. र.. = = विवादरत्नाकर of चण्डेश्वर (published in the Bibliotheca Indica series).

विश्वरूप—com. of विश्वरूप on याज्ञवल्क्यस्मृति (Trivandrum Sanskrit series.)

वीर० – वीरमित्रोदय of मित्रमिश्र (on व्यवहार published by Jivananda and on राजनीति in the Chowkhamba Sanskrit series).

व्यव. त. = व्यवहारतत्त्व of रघुनन्दन (edited by Jivananda).

व्य. म. = व्यवहारमयूख of नीलकण्ठ (edited by me for the Govt. Oriental series, Poona, 1926).

व्य. मा. = व्यवहारमातृका of जीमूतवाहन (edited by Sir Asutosh Mukerji in vol. III of the Memoirs of the Asiatic Society of Bengal).

स. वि. = सरस्वतीविलास of प्रतापरुद्रदेव (published in the Mysore Govt. Oriental Library series).

स्मृतिच॰ = स्मृतिचन्द्रिका of देवण्णभट्ट (published in the Mysore Govt. Oriental Library series).

हरदत्त—हरदत्त's commentaries on गौतमधर्मसूत्र (Ānandāśrama Press) and आपस्तम्बधर्मसूत्र) (Kumbhakonam edition).

TABLE OF CONTENTS

INTRODUCTION.

Kātyāyana occupies a very prominent place among smṛti writers on law and procedure. Next to Nārada and Bṛhaspati he is cited on *vyavahāra* more frequently than any other smṛtikāra in such commentaries and digests as the Mitākṣarā, the Smṛticandrikā, the Vīramitrodaya and the Vyavahāramayūkha. Kātyāyana's work on law and procedure must have been of considerable extent. In the present work, over nine hundred quotations from Kātyāyana have been collected. The smṛti of Nārada as printed by Dr. Jolly contains 1028 verses while the quotations from Bṛhaspati collected and translated by the same learned scholar in the Sacred Books of the East series (vol. 33) number 697 verses. Therefore even on a very modest computation the smṛti of Kātyāyana on law and procedure must have contained about fifteen hundred verses, if not more. This conclusion is further strenghthened by a comparison of the number of quotations from Kātyāyana on certain

Topics.	Verses in Yāj.	Verses in Nārada	Verses from Bṛ.	Verses from Kāt.
Courts, procedure, plaint, reply and trial.	21	136	128	189
Documents	11	12	31	64
Witnesses	16	82	35	72
Ordeals	19	103	33	53
Deposits &c.	11	15	15	20
Partnership	7	18	32	14
Resumption of gifts	2	12	11	19
Breach of contract of service	3	43	20	19
Sale by one not the owner	6	8	11	12
Violation of conventions	8	7	24	15
Boundary Disputes	9	43	29	36
Dāyabhāga	35	52	101	95
Vākpāruṣya	8	32	15	11
Daṇḍapāruṣya	18	8	16	16
Prakīrṇaka	13	55	26	30

selected topics of law and procedure with the number of verses devoted to the same topics in the works of Yājñavalkya and Nārada and in the quctations from Bṛhaspati. The above table will be very instructive from this point of view.

A few cbservations about the text presented would be quite appropriate here. Owing to oversight a few verses have been repeated (viz., 253 and 267, 477-78 587-88, 471 and 641, 566 and 654, 486 and 957). In a few cases the text of Kātyāyana is presented in two versions (viz. 61-62, 174-175, 537-538, 899-900) by the authorities consulted in reconstructing the text. About a dozen verses are somewhat obscure or difficult of explanation, as we are ignorant of their proper setting or context (e. g., vv. 17, 160, 256, 309-10, 491, 541, 700, 851, 932, 971). A few of the verses here presented as Kātyāyana's are ascribed by some authorities to other smṛtikāras. The following tables will illustrate this :

(1 Ascribed to Bṛhaspatī)

Verses	by whom so ascribed	Verses	by whom so ascribed
53-54	Sm. C.	536	Par. M. and V. M.
*83	Vir.	*539	Vir.
*141-142	Apar. and Sm. C.	550	Sm.C., Par. M., V. R.
*152	Par. M.	568	V. R.
154-155	Par. M.	621-623	Apar.
167	Vy. Māt.	626-630	V. R.
170	Par. M.	636	Apar, V. R.
*171	Vir.	692	V, C. and V. R.
206	(first half line) Vir.	695	V. R. and V. C.
208	Vy. Māt.	757	Apar and Par. M.
279	Par. M.	*822A	Gṛhastharatnākara.
282	Par. M.	832-833	Sm. C.
291-93	Apar.	889-91	Sm. C.
329	Par. M.	963	Par. M.
378	Apar., V. M., Vir.		
*439	Saras.		
*496	Vir.		
500	Sm. C.		

1 It will be noticed from the notes attached to the text and the English notes that the verses marked with an asterisk are ascribed to both Bṛhaspati and Kātyāyana even in some of the earlist digests and commentators like Viśvarūpa and the Vyavahāra-mātṛkā.

(2 Ascribed to Nārada)[1]

Verses	by whom aecribed	Verses	by whom ascribed.
27	Sm. C.	774	Sm. C.
159	Vy. Māt.	811	Mit ; Par M.
331-32	Sm. C.	820	V. R.
333-334	Sm. C.		

(3 Ascribed to Manu)

82	Vy. Māt.	619	Mit.
605[2]	Vir.	746	Vir.

(4 Ascribed to Vyāsa)

103	Sm. C.	382-384	V. M.
105	Sm. C.	595	Vir.
216	Sm. C., Vir.	597[3]	Par. M.
242	Vir.	693-95	Par. M.
		854	D. B.

Besides these, verses 908–909 and 916 are ascribed to Devala by the Vyavahāramayūkha, verses 425–426 are ascribed to Pitāmaha by the Vīramitrodaya and verses 485–86 to the same author by the Parās'aramādhavīya, verses 402–403 are ascribed to Prajāpati by the Parās'aramādhavīya, verses 394–5 are ascribed to Vasiṣṭha by the Smṛticandrikā and several other digests and verse 404 to the same author by the Smṛticandrikā, verses 418–419 are ascribed to Vṛddha-Manu by the Sarasvatīvilāsa, verse 659 to the same by the Vīramitrodaya and verses 818-19 to the same the by Vivādaratnākara.

Several verses quoted as Kātyāyana's in the digests occur in the printed Nārada. The following are such verses: 73,[4] 82[5], 91[6], 129, 169, 249, 289, 305, 321, 345, 356–357, 400–401, 437, 451, 455, 493-494, 553, 569·70, 625, 693–94, 696, 698-99, 714, 730-31, 765–66, 769, 893, 939. The corresponding verses of

1 Verses 159 and 820 are ascribed to both Nārada and Kāt. by some writers.

2 Verse 605 is ascribed to both Kāt. and Manu and is nst found in Manu.

3 Varse 597 is ascribed to both Vyāsa and Kāt. by Vir.

4 This is also found in Manu.

5 82 is ascribed to both Manu and Kāt. by the Vy. Māt.

6 91, 356–57 are ascribed to both Nar. and Kat. by the Māt. and 129 to both of them by the Todarānanda.

Nārada are indicated in the notes to the translation. A dozen verses attributed to Kātyāyana are found in Manu[1]. Besides verses 83 and 884A occur in the Kauṭilīya Arths'āstra, and verses 326 and 327 are the same as Viṣṇu V. 186-187 and verses 463 and 716 (first-half) are the same as Yājñavalkya II. 113 and 183 (latter half).

It is impossibie to hold that verses of other authors were in all such cases ascribed to Kātyāyana owing to lapses of memory on the part of the authors of digests or to the careless copying of manuscripts. The fact that such early writers as Vis'varūpa and Jīmūtavāhana ascribe several verses to two authors should rather induce us to hold that some verses were borrowed by Kātyāyana, Bṛhaspati and others from still earlier works which are now lost or that Kātyāyana bodily took some verses from his predecessors and incorporated them in his work.

The predecessors of Kātyayana.

The authors and schools expressly named by Kātyāyana are: Bhṛgu, Bṛhaspati, Gārgīyas (v. 649), Gautamas[2] (v. 823), Kauśika (v. 825) Likhita (v. 910), Mānavas (vv. 649, 823), Manu (vv. 432, 573, 792). It is to be noted that in v. 519 Kātyāyana himself is mentioned. It is possible that instead of saying ' this is my view ', he uses the less emphatic and more modest method of giving his own views. One remarkable fact is that the views ascribed to Manu and the Mānavas are not found in the extant Manusmṛti. On the contrary the view of the extant Manu is opposed to that of the Mānavas indicated in v. 823. It is possible that the reading ' pravāsanam ' (in v. 823) is wrong and we have to read in its place ' pramāpaṇam '. In that case only that verse referring to the views of the Mānavas will agree with Manu 9·270. The view ascribed to the Gārgīyas and Mānavas

1 342-243=M. 8. 79-80, 344=M. 8·87, 351=M. 8·68, 393=M. 8·78, 535=M. 8·158, 655=M. 8·165 722=M. 8·413, 782=M·8. 286, 793=M. 8,285, 894=M. 9·194.

2 The Gautama-dharmasūtra contains no such rule. The subject of theft is treated of in Gautama XII. 14.

about taking bribes (v. 649) is not the same as that contained in Manu 9. 231. Bṛhaspati is expressly mentioned in the following verses, viz., 152, 170,[1] 346, 474, 537, 664, 682, 718, 871, 874, 884. As the smṛti of Bṛhaspati has not yet been recovered and as we have only the quotations from Bṛhaspati contained in the Digests it is not possible to say whether all the views attributed to Bṛhaspati were really held by him. Verse 152 is attributed to Bṛhaspati by the Par. M. and to both Bṛhaspati and Kātyāyana by the Vīramitrodaya. We find that the views attributed to Bṛhaspati in v. 884 were held by him as is clear from the six verses quoted by Aparārka (p. 726) from Bṛhaspati on Yaj. II. 119.

That Kātyāyana looked upon Bṛhaspati as a model and as an author whose dicta were entitled to respect follows from several verses of Kātyāyana. Verses 29 and 30 show that Kātyāyana had before him the division of the 18 titles of law into 'dhanamūla' (civil) and 'hiṁsā-mūla' (criminal) made by Bṛhaspati. Similarly the discussion about decision by *dharma*, *vyavahāra*, *caritra* and *rājas'āsana* (in verses 35–51) is an elaboration of Bṛhaspati's teaching on this subject. Verses 284 (about three kinds of documents), 477–78 (about the modes of recovering a debt), 470 (which employs the very word nisṛṣṭārtha used by Bṛhaspati), 497–500 (about several kinds of interest), 564–565 (about the duty of the son as regards the liability of the father incurred through lust or wrath), 644–645 (about the kinds of valid gifts) presuppose a knowledge of Bṛhaspati's text.

The references to Bhṛgu's views are many and create some difficult problems. It is generally held that references to Bhṛgu in the smṛtis and digests are intended for the extant Manusmṛti (which is Bhṛgu's version thereof.) Even so early a writer as Bṛhaspati says[2] 'Bhṛgu spoke of sale without ownership after deposit ; listen to it attentively ; I shall speak of it

1 This verse is variously read, Vir reading it as 'Bhṛgur—abravīd' and Toḍarānanda as 'Manur abravīd' instead of 'Gurur-abravīd.'

2 निक्षेपानन्तरं प्रोक्तो भृगुणास्वामिविक्रयः। श्रूयतां तं प्रयत्नेन सविशेषं ब्रवीष्यहम् ॥ from the विवादरत्नाकर p. 100.

in greater detail '. This clearly refers to Manu 8.4 where sale by one not the owner' immediately follows ' deposit '. Bṛhaspati elsewhere refers to the extant Manusmṛti not as Bhṛgu's work but as Manu's,[1] e. g. 'Manu has spoken of quantities (units of weight etc.) beginning from the mote in the sunbeam to the Kārṣāpaṇa' (this is an obvious reference to Manu 8. 132-136) and ' Manu forbade gambling as it destroys truth, purity and wealth ' (this refers to Manu 9. 221, 224.). Kātyāyana therefore must be regarded as referring to the work of Manu whenever he speaks of Bhṛgu. But verses 231, 395, 413, 478, 555, 715, 781, 842[2] wherein the views of Bhṛgu are referred to have nothing corresponding to them in the extant Manusmṛti, while the views of Bhṛgu in verses 482, 545, 672, 801, 872, 884A, 886, 900 correspond more or less with the views of the Manusmṛti. Kullūka on manu VIII. 350 quotes Kātyāyana's verse (801) and expressly says 'from the mention of the word Bhṛgu in this verse it is clear that Kātyāyana explains the verse declared by Manu '. Therefore the explanation of the fact that some views ascribed to Bhṛgu are not, found in the extent Manusmṛti lies in this that either Kātyāyana had a text of Manu largely differing from our extant Manu or that he had another smṛti of Bhṛgu before him which has not come downs to us or that instead of ' Bhṛgu ' in those verses we have to read ' Guruḥ ' (i. e. Bṛhaspati).

That Kātyāyana nowhere expressly mentions Nārada or Kauṭilya is a matter for great surprise, specially when he mentions Bhṛgu and Bṛhaspati a dozen times or more. No reason can be assigned for this omission. But from several circumstances it is clear that he knew the smṛti of Nārada, and used it and elaborated it. To take only a few examples. Nārada (p. 7 vv. 10-11) states that *dharma*, *vyavahāra*, *caritra* and royal edict are the four feet (*pādas*) of vyavahāra and briefly describes in what their essence consists, while Kātyāyana in verses 35-51 elaborately defines these four and dwells at length

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1 संख्या रश्मिरजामूलो मनुना समुदाहता । कार्षापणान्ता सा दिव्ये नियोज्या' विनये तथा ॥ quoted by अपरार्क on याज्ञ. II. 99.

2 In v. 842 it is probable that the proper reading is गूढेऽब्रवीद्गुरुः and not-द्भृगुः, since as pointed out in the notes to the translation, Bṛhaapati has a verse which is almost the same as this.

upon their conflicts and interactions. In verse 202 Kātyāyana prescribes the fines for five kinds of *hīnavādis,* which are enumerated by him in the same order in which they occur in Nārada (S. B. E. vol. 33 p. 31 v. 33). In a very long list about persons incompetent to be witnesses Nārada (pp. 86-89 vv. 177-187) mentions 'sanābhi' (180) and 'rājapuruṣa' (v. 185). These two are defined by Kātyāyana in vv. 362 and 364 respectively. Nārada (p. 24 v. 1) says that a plaintiff comes to court after considering the strength of his own case and after resolving to prosecute his cause and so should write down the plaint at once. Kātyāyana, according to the Vyavahāra-mātṛkā, explains in verse 134 the force of two adjectives in that verse of Nārada. Nārada (p. 129 v. 8) enumerates seven kinds of gifts, two of which are 'bhṛtiḥ' and 'pratyupakārataḥ'. In vv. 644-645 Kātyāyana explains at length what is meant by these two terms. Bṛhaspati also mentions the seven kinds of gifts of which bhṛti[1] is one. But Kātyāyana uses the very word 'pratyupakārataḥ' that occurs in Nārada while the corresponding word in Bṛhaspati is 'upakāriṇe'. Nārada enumerates (pp. 135-136 vv. 26-28) fifteen kinds of slaves, two of which are 'pravrajyāvasita' and 'anākāla-bhṛta'. Both of these are mentioned in the same words by Kātyāyana in verse 731 the latter half of which is the same as Nārada (p. 136 v. 31 first half). These examples leave no room for doubt that Kātyāyana had before him the work of Nārada and tried to elucidate and elaborate the laconic treatment of law in it.

Another important problem is to consider the relation of Kauṭilya and Kātyāyana In the notes to the translation of the verses 466, 620, 755, 843-845, 857, 861, 902, 921 it has been shown how closely Kātyāyana agrees with Kauṭilya, in some cases the very words of Kauṭilya in prose occurring in the garb of verse in Kātyāyana. Two verses, as shown above, are common to both. Considering how advanced general jurisprudence, rules of procedure and substantive law are in Kātyāyana there can be no donbt that Kātyāyana is later by

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1 भृतिस्तुष्टया पण्यमूल्यं स्त्रीशुल्कमुपकारिणे । श्रद्धानुग्रहसंप्रीत्या दत्तं सप्तविधं विदुः ॥ quoted in Vir. p. 398.

several centuries than Kauṭilya. Therefore if there is a borrowing it must be Kātyāyana who borrows. It is not unlikely that both may have borrowed, particularly the two verses that are common to both, from still earlier sources.

Characteristics and special doctrines of Katyāyana.

(1) Kātyāyana represents the high watermark of smṛti rules about procedure. In some respects he goes even beyond Nārada and Bṛhaspati and is more stringent and elaborate than those two writers. For example, in verse 221 he propounds a rule similar to the rule of constructive *res judicata.*

(2) He has a great *penchant* for distinctions and gives numerous definitions, such as those of vyavahāra, prāḍvivāka, stobhaka, tīrita, anuśiṣṭa, sāmanta, maula, vṛddha &c.

(3) He coins several new terms. He makes a distinction between *jayapatra* and *pas'cātkāra* (vv.259-265) while all other writers employ the word *jayapatra* for all judgments (whether delivered after a contest or *ex parte*). Kauṭilya no doubt uses the word 'pas'cātkāra' but it is used in a different sense.[1] He separately defines (vv. 876, 878) wealth obtained by 'śaurya' and 'dhvajāhṛta', while Nārada and Bṛhaspati includes both under 'śauryadhana'. Similarly he makes a distinction between 'kanyāgata' and 'vaivāhika' (vv. 879 --880), while Nārada (p. 190 v. 6) and Bṛhaspati (p. 381 v. 78) include both under 'bhāryādhana'.

(4) He gives a more elaborate treatment of 'vidyādhana' (vv. 867-873) than is contained in any other smṛtikāra.

(5) He devotes at least 27 verses to Strīdhana and his treatment of that topic has attained classical rank. Nārada devotes only two verses (dāyabhāga verses 8--9) to that topic, Yājñavalkya only six and the quotations from Bṛhaspati on this topic are not many.

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1 घाताभियोगमप्रतिब्रुवतस्तदहरेव पश्चात्कारः । If a man (defendant or accused) does not reply to a charge of injury (or assault) then he is defeated(or punished) that very day.

(6) Kātyāyana (v. 530) speaks of five kinds of sureties, while Nārada knows only three and Yājñavalkya and Bṛhaspati only four.

(7) In verses 16–17 he allows only a limited (and not absolute) ownership to the king over all land.

(8) The court consisted of the judge, the *sabhyas*, *brāhmaṇas*, merchants. (vv. 57-59).

(9) Champerty and maintenance were not countenanced (vv. 89–90).

(10) The employment of recognised agents and pleaders was permitted (vv. 91–92). Nārada (p. 29 vv. 22-23) has similar provisions.

(11) Kātyāyana holds, differing from Vasiṣṭha, Yājñavalkya and other sages, that a man has no ownership over his wife or son and cannot sell his son (v. 471).

(12) Kātyāyana allowed the pledge of an article without possession (vv. 517-518).

(13) Kātyāyana (v. 857) allows one-fourth to a son who is not aurasa, when an aurasa son is born to the father, provided the former is of the same caste. In Manu and Yājñavalkya no such proviso is added.

(14) Kātyāyana permits the practice of *niyoga* following ancient writers like Gautama, Vasiṣṭha, Yāj. and Nārada, though it was condemmed by Manu (9. 64-66) and Bṛhaspati (p. 369 vv. 12-13).

The date of K tyāyana

The foregoing discussion has establised that Kātyāyana is later than Kauṭilya, Yājñavalkya, Nārada and Bṛhaspati. In his treatment of ordeals he is less elaborate than Pitāmaha. Pitāmaha quotes Bṛhaspati.[1] So Kātyāyana is later than Bṛhaspati and earlier than Pitāmaha. The external evidence will enable us to arrive at a more precise date. Kātyāyana

1 ग्रामगोष्ठीपुरश्रेणींसार्थसेनानिवासिनाम् । व्यवहारश्चरित्रेण निर्णेतव्यो बृहस्पतिः॥ quoted in स्मृतिचंद्रिका III. p. 58. Vide Bṛ. p. 287 v. 28.

is profusely quoted by the Mītākṣarā, Aparārka and other writers of the 11th and 12th centuries as a smṛtikāra of equal authority with Yājñavalkya, Nārada and Bṛhaspati. In their opinion therefore he was an ancient author. In the Valipaṭṭana plate of the S'ilāhāra king Raṭṭarāja dated śake 932 (1010-11 A. D.) one verse of Kātyāyana (296) about the requisites of a valid royal edict is quoted as a smṛti'.[1] Medhātithi on Manu (VII. 1.) ascribes to Kātyāyana the rule that in case of conflict between the dictates of dharmas'ātra and of arthaśāstra, the king should prefer the former (v. 20). Medhātithi on Manu VIII. 216 speaks of a Kātyāyanasūtra.[2] Whether he refers to another work of Kātyāyana in prose or whether Kāyāyana's smṛti on vyavahāra included prose passages also, or whether Medhātithi only gives in prose the purport of a verse of Kātyāyana similar in principle to v. 657 it is difficult to say. The second alternative is almost improbable, as no other commentator or digest has quoted a single prose passage on vyavahāra from Kātyāyana. In favour of the first alternative, it may be urged that Kātyāyana is enumerated as one of the expounders of Dharma in S'aṅkha-Likhita, Yājñavalkya (I. 4-5) and Parās'ara. As the quotations from Kātyāyana represent a stage of jurisprudence later than the extant Yājñavalkya, the reference to Kātyāyana in Yājñavalkya must be to some earlier work of another Kātyāyana or the verses about the expounders of dharma in Yājñavalkya must be a later addition. As Medhātithi knew a verse of Kātyāyana which is quoted by the Mit. and other digesta there can be little doubt that Medhātithi at least knew a work in verse of Kātyāyana. Therefore it appears that the third alternative referred to above is more probable than the other two. Medhātithi flourished between 825-900 A. D. (vide my 'History of dharmas'ātra' Vol. I. p. 275). Viśvarūpa (on Yaj.) quotes eleven verses of Kātyāyana (124, 125, 126, 130, 136, 139, 140, 141, 541, 806, 828). Viśvarūpa flourished in the first half of the 9th century (vide History of dharmas'āstra p. 263). Viśvarūpa looked upon Kātyāyana as a great smṛti writer like Yaj.,

1 Vide 'Indian Historical Quarterly' for 1928 p. 218.

2 'यो वाम्यः कस्यचित्कर्मणि धनमाबध्य अर्धतो निवर्तेतेति कात्यायनीये सूत्रे धनमाबध्य आसज्य धनव्ययं कारयित्वा यदि अर्धकृते निवर्तेत सोपि तद्वहेदित्यनुषङ्गः'.

Nārada and Bṛhaspati. This position he could not have attained in a century or two. Hence Kātyāyana cannot be placed later than 600 A. D. As Kātyāyana is later than Yājñavalkya, Nārada and Bṛhaspati, he could not have flourished before the 3rd or 4th century A. D. Therefore the smṛti of Kātyāyana must be placed between 300 to 600 A. D.

There is a work called Karmapradīpa on ācārya, śrāddha and other topics (excluding vyavahāra) ascribed to Kātyāyana. Vide History of dharmas'āstra, Vol. I. pp. 218-221 for a discussion as to its authorhsip and other matters.

Kātyāyana and Western Jurisprudence.

Kātyāyana represents the last stage of the development of law and procedure in the smṛtis. He comes almost at the end of the period of about a thousand years during which from scanty and scattered beginnings in the earliest Dharmasūtras, principles of an indigenous system of jurisprudence were slowly evolved and matured. It would be unfair to institute a comparison between Kātyāyana and modern jurisprudence of this or the last century. Even so, some of his rules such as those about the contents and characteristics of good plaints and written statements, about the evidence of witnesses and about documents, about constructive *res judicata* are startling in their modernity. A study of the vesres indicated in the Index where there is a close correspondence between the dicta of Kātyāyana and modern Anglo-Indian Codes (such as the Civil Procedure Code, the Contract Act, the Evidence Act, the Limitation Act, the Transfer of Property Act) will amply corroborate this statement. In order to appreciate the intrinsic merits of ancient Indian Jurisprudence as represented by Kātyāyana, the proper course would be to compare it with the most developed system of ancient Jurisprudence in the West, viz., the Roman. Kātyāyana probaly flourished as shown above about the same time as Justinian (483-565 A. D.) or perhaps a century or two earlier. In the following an attempt will be made to compare a few of the dicta of Kātyāyana with the Institutes of Justinian, the great Roman legislator and it is hoped that it will be found that both present a striking

similarity on many points (particularly in the law of contracts) and that, where they differ, good sense, equity and logic do not often lie with the Roman legislator.

Under the old Roman Law of the Twelve Tables the father's power over his children included the power of sale or even putting to death. Even Justinian says (Lib. I Tit. IX. 2):—'Our children begotten in lawful wedlock are in our power. The power which we have over our children is peculiar to the citizens of Rome; for no other people have a power over their children such as we have over our own.' Ancient *Dharmasūtras* like that of Vasiṣṭha (15. 2) held that parents had the power to sell, gift away or abandon their children But later smṛti writers curtailed this power. Yājña-valkya (II. 175) and Nārada (p. 128 v. 4) both forbade the gift of a son, while Kātyāyana (v. 471) says that the father can only control his son, but he has no power to sell or gift away his son. Kātyāyana no doubt says (v. 639) that according to the *s'āstras* in times of adversity a son may be sold or given away. But this latter does not appear to be his own view, but is rather the view that he finds ancient texts advocated. Similarly according to ancient Roman Law all that children acquired was for the benefit of their parents, but Justinian (Lib. II. Tit. IX. I) made a change viz. that all that children acquired by the help of the fortunes of the father belonged entirely to the father, but in all else the father was to have the usufruct while the son was to retain the ownership. According to Manu (VIII. 416) whatever was acquired by the son belonged to the father. But this rule was modified by Yājñavalkya (II. 118–119) and others who said that whatever was acquired without detriment to the father's estate became exclusively the son's and the father or other co-parceners had no right over it. Kātyāyana elaborately defines and illustrates self-acquisition (866–873). In one verse (851) Kātyāyana appears to give two shares to the father when the property was acquired by the son without detriment to the father's estate and half the property when it was acquired with the help of the father's property. The views of Yājñavalkya and Kātyāyana are much in advance of Justinian and more favourable to the acquirer. Even when wealth was acquired with the help of the father's estate Vasiṣṭha (17. 57) gave two shares to the acquirer.

The rules of Hindu law were therefore more equitable to the acquirer than the rule of Justinian.

According to ancient Roman Law if any one had received *bonafide* by purchase, gift or other legal means a thing from a person who was not the owner, he became the owner by one year's use in the case of moveables and by two years' use in the case of immoveable property situated in *solum Italicum.* Justinian (Lib. II Tit. VI) altered these unreasonably short periods and prescribed that moveables should be acquired by user for three years and immoveable property by the 'possession of long time' i.e. for ten years for persons present and twenty years for persons absent, wherever the property might be situated. Ancient Indian jurisprudence showed more concern for rights of ownership in property. Ancient writers like Manu (VIII. 147) and Gautama (XII. 34) held that if a chattel were enjoyed for ten years before the eyes of the owner by another without protest, the ownership was lost. Yājñavalkya (II. 24) appears to have prescribed 20 years in the case of immoveable property and ten years in the case of moveables for loss of ownership by adverse possession. Nārada (p. 62 v. 89 and p. 63 v. 91) prescribed that possession within living memory cannot confer ownership if unaccompanied by title but when it has been enjoyed for three generations and thus passes beyond living memory it becomes independent proof of ownership. But there was divergence about what was meant by 'living memory' or 'three generations.' Bṛhaspati (p. 313 vv. 23 24) says that a generation means a period of 30 years; so three generations would come to about 90 or 100 years and this is the period of living memory according to the Mitākṣarā on Yājñavalkya (II. 27). Vyāsa followed a middle course and cut down the period of living memory to sixty years and Kātyāyana (v. 318) does the same. Considering the natural inclination of most strong men to seize the property of the weak and the unsettled state of the country in those times owing to wars and foreign invasions the period prescribed by Kātyāyana is not unreasonable. It may be noted that till the passing of the Prescription Act (2 and 3 William IV Chapter 71) English law clung to the singular rule that the expression 'Time immemorial' included and denoted the whole period of time from the reign of king Richard I (1189

A.D.) and that the Prescription Act prescribes a period of sixty years for making a right by enjoyment absolute and indefeasible.

Justinian (Lib. II. Tit. VI. 1, 9) prescribed that possession however long would not confer ownership in the case of free persons, sacred or religious things, fugitive slaves and things that belong to the state *fiscus*. A similar rule is given by Kātyāyana (v. 330).

According to Justinian (Lib. III Tit. XIV. 2-3) he who receives a thing but for his use (*commodatum*) is bound to employ his utmost diligence in keeping and preserving it and it would not be sufficient for him to show that he had taken the same care of it which he was accustomed to take of his own property. But a person with whom a thing is deposited (*depositum*) was only answerable if he was guilty of fraud and not for a fault such as carelessness or negligence. Kātyāyana on the other hand places all kinds of bailment on the same footing (v. 592) and prescribes for all bailments the rule that the bailee would not be liable if he takes as much care of the thing bailed as he takes of his own property (v. 594, 598). That the rule of Kātyāyana is more reasonable will be clear to any one and the Indian Contract Act (sections 151-152) rea quires the same amount of care from every bailee as Kātyāyana does.

Slavery was recognised by Indian Jurisprudence as well as by Justinian. Manumission of slaves was effected according to Justinian (Lib. I. Tit. V. I) in various more or less complicated ways; but according to ancient Indian writers a very simple procedure was prescribed (vide Nārada p. 138 vv. 42-43). Justinian (Lib. I Tit. VIII. I) says 'slaves are in the power of masters, a power derived from the law of nations; for among all nations it may be remarked that masters have the power of life and death over their slaves and that everything acquired by the slave is acquired for the master.' He further on provides that he who without reason killed his slave is to be punished equally with one who has killed the slave of another and that if masters too harshly treated their slaves (short of death) the slaves were to be ordered by the Magistrate to be sold. The ancient Indian texts never gave the power of life and

death over slaves to their masters. On the contrary Manu said (VIII. 299-300) that a master could not inflict more punishment on his slave than he could inflict on his own son and that punishment was to be administered only on the back (and never on the head) with a rope or a small bamboo stick. Manu (IV. 180) enjoined on a man not to quarrel with his parents' children, wife and slaves and laid down that, as a slave was like one's shadow and as the daughter was the highest object of tenderness, one must not even when offended by them show resentment (IV. 185) Manu (VIII. 416) no doubt prescribed that what a slave acquired belonged to the master. Kātyāyana however (v. 724) appears to have held that what the slave got through the favour of his master did not belong to the master. Kātyāyana further provided a remarkable rule (v. 729) viz. that a master was to be fined two hundred *paṇas* if being well-off he desired to sell a female slave who was devoted to him and who wept over the proposed seperation. These and other provisions show that the ancient Hindu Law as to slaves was decidedly more humane than the Roman Law.

Justinian (Lib. III. Tit. XXIII) says 'If earnest has been given, then whether the contract was written or unwritten, the purchaser, if he refuses to fulfil it, loses what he has given as earnest and the seller if he refuses has to restore double.' This very rule occurs in Kātyāyana (v. 541).

Kātyāyana was the greatest ancient Indian champion of the rights of women to their property. He defines at great length what is woman's peculiar property. He prescribed that over women's wealth of the type called *saudāyika* (v. 901) she had absolute power of disposal, even as regards immoveable property (vv 905-906). Not even the husband nor her son had any power over her peculiar wealth and Kātyāyana went so far as to say that the husband and others, if they deprived her of such wealth, were liable to be fined (vv 912, 915). Comparing these provisions with Justinian's (Lib. II Tit. VII. 3, Lib. II. Tit. VIII, Lib. IV. Tit. VI. 37) it appears that the position of the wife as regards property was better under Hindu Law than under Justinian. The position of the wife under the English Common Law was that of utter legal subjection. By that law, as the husband and wife were regarded as one person, the wife

was incapable, with some insignificant exceptions, of acquiring or enjoying any property, real or personal, independendently of her husband. This continued till so late as 1882, when the Married Women's Property Act (45 and 46 Vict. Chapter 75) was passed. Even after that Act, the old law continues as regards marriages celebrated before 1st January 1883.

It is beyond the scope of this Introduction to compare and contrast exhaustively the rules of Kātyāyana and the Institutes of Justinian. Enough has already been stated to show that a comparison between the two would be far from unfavourable to the Indian sage. The only point of importance in which Justinian can be claimed to have gone much beyond the Indian sage is in the law of wills. Owing to the universal prevalence of the joint family system in India and the practice of adoption, the law of wills was not developed in ancient India. Kātyāyana however made a very near approach to wills when he provided that, if a gift was promised by a man for a religious purpose whether in good health or when suffering from a disease, or when a man promised a gift to a brāhmaṇa, the son or other heir was to be made to deliver or pay the promised gift even after the death of the promisor (vv. 566, 642).

It is gratifying to see that human reason, whether in the East or in the West, reaches fundamentally identical solutions of practical problems, when untrammelled by the dead weight of scriptural authority or when not dwarfed by alien domination.

INDEX OF HALF-VERSES



ERRATA

N. B. Misprints that would be easily detected have not been shown.

Page	Verse	Correct	Incorrect
1	10	नरकं	नरकें
4	33	राज्ञाप्रचोदितः	राज्ञा प्रचोदितः
11	65	क्रमायातो	क्षमायातो
19	120	गृहीतग्रहणो	ग्रहीतग्रहणो
24	163	-योक्तारं नाभियुञ्जीत	-योक्तारमभियुञ्जीत
30	216	धटादि—	वधादि—
33	240	परिहारयेत्	परिधारयेत्
3[illegible]	271	मत्तेनोपधि०	मत्तेनोपाधि०
44	337	प्रज्ञापनाभेदः	प्रज्ञापना भेदः
46	348	नोत्कृष्टैश्चाव-	नोत्कृष्टश्चाव-
56	444	शिरोमात्रं	शिरोमानं
56	445	दष्टश्चेत्	दृष्टश्चेत्
56	445	दंशचिह्न—	देशचिह्न—
59	466	पिता स्वतन्त्रः	पिताऽस्वतन्त्रः
59	472	दण्डश्च	दण्डं च
62	499	चर्णिकः	चर्णिकम्
6[illegible]	510	फलकैटाविकस्य	फालकैटाविकस्य
65	520	योऽविद्यमानं	यो विद्यमानं
65	522	गृहं	ग्रामं
89	735	सामन्तभावे सामन्तैः	सामन्तभावेऽसामन्तः
91	745	स्मृताः	स्मृतः
91	747	समाहितः	समाहिताः
92	755	अनिरुद्धा	अनिरुद्धो
100	824	प्रगृह्य चिह्न-	प्रगृह्याच्छिन्न-
101	833	-वक्तानुमोदकः	-वक्त्रनुमोदकः
116	961	विशेषादेन—	विशेषादेव—
148	170	'Ādharya' means 'weakness'	'Adharya means 'weakne'
156	207n	fate	ate

Page	Verse	Correct	Incorrect
158	211n	' while in the other two kinds... the plaintiff '	' while in the other two kinds ....the defendant'
185	353n	Omit the figure ' 354 ' and read ' This reading ' immediately after ' an ornament etc ' in the preceding line	
220	520	as *ādiṣṭa*	as *nirdiṣṭa*
234	566n	30 Mad. 340	30 Mad 34
302	857n	' the father and aurasa son take four-ninths each '	' the father and aurasa son take one-fourth each .'
304	859n	मंत्रसंस्कार	मंत्रसंकार
312	882	वास्तुत्रिभागो	वस्तुविभागो

कात्यायनस्मृतिसारोद्धारः

(राजगुणाः)

विनीतः शास्त्रसंपन्नः कोशशौर्यसमन्वितः ।
ब्रह्मण्यो दानशीलः स्यात्सत्यधर्मपरो नृपः ॥१॥
स्तम्भोपतापपैशुन्यचापलक्रोधवर्जितः ।
प्रगल्भः सन्नतोदग्रः संभाषी प्रियदर्शनः ॥२॥
वश्येन्द्रियं जितात्मानं धृतदण्डं विकारिषु ।
परीक्ष्यकारिणं धीरमत्यन्तं श्रीर्निषेवते ॥३॥

(राजधर्माः)

शौर्यविद्यार्थबाहुल्यात्प्रभुत्वाच्च विशेषतः ।
सदा चित्तं नरेन्द्राणां मोहमायाति कारणात् ॥४॥
तस्माच्चित्तं प्रबोद्धव्यं राजधर्मे सदा द्विजैः ।
पवित्रं परमं पुण्यं स्मृतिवाक्यं न लङ्घयेत् ॥५॥
वेदध्वनिप्रभावेण देवाः स्वर्गनिवासिनः ।
तेपि तत्र प्रमोदन्ते तृप्तास्तु द्विजपूजनात् ॥ ६ ॥
तस्माद्यत्नेन कर्तव्या द्विजपूजा सदा नृपैः ।
तेन भूयोपि शक्रत्वं नरेन्द्रत्वं पुनः पुनः ॥ ७ ॥
सुराध्यक्षश्च्युतः स्वर्गान्नृपरूपेण तिष्ठति ।
कर्तव्यं तेन तन्नित्यं येन तत्त्वं समाप्नुयात् ॥ ८ ॥
आत्मीये संस्थिता धर्मे नृपाः शक्रत्वमाप्नुयुः ।
अवीचिवासिनो ये तु व्यपेताचारिणः सदा ॥ ९ ॥
गच्छेत्सम्यगविज्ञाय वशं क्रोधस्य यो नृपः ।
वसेत्स नरकं घोरे कल्पार्धं तु न संशयः ॥ १० ॥

1-3 कृत्यकल्पतरु, वीर० (राजनीतिप्रकाश) pp. 120-121.
4-5 वीर ० (राज०) p. 136, कृत्यकल्पतरु.
6-8 कृत्यकल्पतरु, वीर० (राज०) p. 139.
9 कृत्यकल्पतरु, वीर० (राज०) p. 145.
10 कृत्यकल्पतरु.

एतैरेव गुणैर्युक्तममात्यं कार्यचिन्तकम् ।
ब्राह्मणं तु प्रकुर्वीत नृपभक्तं कुलोद्वहम् ॥ ११ ॥
मन्त्रिणो यत्र सभ्याश्च वैद्याश्च प्रियवादिनः ।
राज्याद्धर्मात्सुखात्तत्र क्षिप्रं हीयेत पार्थिवः ॥ १२ ॥
न तस्य वचने कोपमेतेषां तु प्रवर्तयेत् ।
यस्मादेतैः सदा वाच्यं न्याय्यं सुपरिनिष्ठितम् ॥ १३ ॥
यत्र कर्माणि नृपतिः स्वयं पश्यति धर्मतः ।
तत्र साधुसमाचारा निवसेयुः सुखं प्रजाः ॥ १४ ॥
प्रजानां रक्षणं नित्यं कण्टकानां च शोधनम् ।
द्विजानां पूजनं चैव एतदर्थं कृतो नृपः ॥ १५ ॥
भूस्वामी तु स्मृतो राजा नान्यद्रव्यस्य सर्वदा ।
तत्फलस्य हि षड्भागं प्राप्नुयान्नान्यथैव तु ॥ १६ ॥
भूतानां तन्निवासित्वात्स्वामित्वं तेन कीर्तितम् ।
तत्क्रिया बलिषड्भागं शुभाशुभनिमित्तजम् ॥ १७ ॥
एवं प्रवर्तते यस्तु लोभं त्यक्त्वा नराधिपः ।
तस्य पुत्राः प्रजायन्ते राष्ट्रं कोशश्च वर्धते ॥ १८ ॥
अन्यायेन हि यो राष्ट्रात् करं दण्डं च पार्थिवः ।
सस्यभागं च शुल्कं चाप्याददीत स पापभाक् ॥ १९ ॥
अर्थशास्त्रोक्तमुत्सृज्य धर्मशास्त्रोक्तमाव्रजेत् ॥ २० ॥
दुष्टस्यापि नरेन्द्रस्य तद्राष्ट्रं न विनाशयेत् ।
न प्रजानुमतो यस्मादन्यायेषु प्रवर्तते ॥ २१ ॥
अक्लेशेनार्थिने यस्तु राजा सम्यङ् निवेदयेत् ।
तत्तारयत्यनन्तं स्याद्धर्मार्थं दानमीदृशम् ॥ २२ ॥
न्यायेनाक्रम्य यल्लब्धं रिपुं निर्जित्य पार्थिवैः ।
तच्छुद्धं तत्प्रदेयं तन्नान्यथोपहृतं क्वचित् ॥ २३ ॥

11-13 कृत्यकल्पतरु, वीर० (राज०) p. 178.
14-15 कृत्यकल्पतरु, वीर० (राज०) p. 254.
16-17 कृत्यकल्पतरु, वीर० (राज०) p. 271.
18-19 वीर० (राज०) p. 276, कृत्यकल्पतरु.
20 मेधा० on मनु० 7.1.
21 वीर० (राज०) p. 411, कृत्यकल्पतरु.
22-23 कृत्यकल्पतरु.

राजा पुरोहितं कुर्यादुदितं ब्राह्मणं हितम् ।
कृताध्ययनसंपन्नमलुब्धं सत्यवादिनम् ॥ २४ ॥

(व्यवहारलक्षणादि)

प्रयत्नसाध्ये विच्छिन्ने धर्माख्ये न्यायविस्तरे ।
साध्यमूलस्तु यो वादो व्यवहारः स उच्यते ॥२५॥
वि नानार्थेऽव संदेहे हरणं हार उच्यते ।
नानासंदेहहरणाद् व्यवहार इति स्मृतः ॥२६॥
न राजा तु वशित्वेन धनलोभेन वा पुनः ।
स्वयं कार्याणि कुर्वीत नराणामविवादिनाम् ॥२७॥
उत्पादयति यो हिंसां देयं वा न प्रयच्छति ।
याचमानाय दौःशील्यादाकृष्योऽसौ नृपाज्ञया ॥२८॥
द्विपदे साध्यभेदात्तु पदाष्टादशतां गते ।
अष्टादश क्रियाभेदाद्भिन्नान्यष्टसहस्रशः ॥२९॥
साध्यवादस्य मूलं स्याद्वादिना यन्निवेदितम् ।
देयाप्रदानं हिंसा चेत्युत्थानद्वयमुच्यते ॥३०॥
पूर्वपक्षश्चोत्तरं च प्रत्याकलितमेव च ।
क्रियापादश्च तेनायं चतुष्पात्समुदाहृतः ॥३१॥
धर्मशास्त्रार्थशास्त्रे तु स्कन्धद्वयमुदाहृतम् ।
जयश्चैवावसायश्च द्वे फले समुदाहृते ॥३२॥

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24 स. वि. p. 20.

25 अपरार्क p. 596, स्मृतिच० III p. 1, वीर० p. 5, परा. मा. III. p. 6.

26 व्य. मा. p. 283, परा. मा. III. p. 7, कुल्लूक on मनु 8. 1. व्य. मा. reads स्थितिः for स्मृतः.

27 व्य. मा. p. 285, टोडरानन्द, कुल्लूक on मनु 8. 43. व्य. मा. reads न वागमाविवादिनाम् for नराणामविवादिनाम्.

28 व्य. मा. p. 285, अपरार्क p. 605.

29 स्मृतिच० III. p. 3 (latter half only), परा. मा. III. p. 20 (reads भिन्नान्यथ सहस्रधा).

30 स्मृतिच० III. p. 27.

31 अपरार्क p. 616, वीर० p. 59, स्मृतिच० III. p. 27.

32 स्मृतिच० III p. 27.

शास्त्रेण निन्दितं त्वर्थमुख्यो राज्ञा प्रचोदितः।
आवेदयति यः पूर्वं स्तोभकः स उदाहृतः ॥३३॥
नृपेणैव नियुक्तो यः परदोषमवेक्षितुम्।
नृपस्य सूचयेज्ज्ञात्वा सूचकः स उदाहृतः ॥३४॥

(धर्म-व्यवहार-चरित्र-राजशासनादीनां बलाबलविचारः)

दोषकारी तु कर्तृत्वं धनस्वामी स्वकं धनम्।
विवादे प्राप्नुयाद्यत्र धर्मेणैव स निर्णयः ॥३५॥
स्मृतिशास्त्रं तु यत्किंचित्प्रथितं धर्मसाधकैः।
कार्याणां निर्णयार्थे तु व्यवहारः स्मृतो हि सः ॥ ३६ ॥
यद्यदाचर्यते येन धर्म्यं वाधर्म्यमेव वा।
देशस्याचरणान्नित्यं चरित्रं तत्प्रकीर्तितम् ॥३७॥
न्यायशास्त्राविरोधेन देशदृष्टेस्तथैव च।
यं धर्मं स्थापयेद्राजा न्याय्यं तद्राजशासनम् ॥३८॥
युक्तियुक्तं तु कार्यं स्याद् दिव्यं यत्र विवर्जितम्।
धर्मस्तु व्यवहारेण बाध्यते तत्र नान्यथा ॥३९॥
प्रतिलोमप्रसूतेषु तथा दुर्गनिवासिषु।
विरुद्धं नियतं प्राहुस्तं धर्मं न विचालयेत् ॥ ४० ॥
निर्णयं तु यदा कुर्यात्तेन धर्मेण पार्थिवः।
व्यवहारश्चरित्रेण तदा तेनैव बाध्यते ॥ ४१ ॥

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33 स्मृतिच० III. 65, परा. मा. III. 45, वीर० p. 51. परा. मा. reads त्वर्थं मुख्यश्चार्थः and वीर० reads यत्पूर्वं, स्मृतिच० reads मुख्यश्चार्थप्र०

34 स्मृतिच० III. 65, परा. मा. III, 45, वीर० p. 51. वीर० reads नृपेण विनियुक्तो...दोषानवेक्षणे, परा. मा. reads नृपस्य समयं ज्ञात्वा.

35 स्मृतिच० III. p. 21, परा. मा. III p. 16, वीर० p. 9.

36 स्मृतिच० III p. 29, कृत्यकल्पतरु, परा. मा. p. 17, वीर० p. 9. वीर० reads नियमार्थेषु for निर्णयार्थे तु; कृत्यकल्पतरु reads निर्णयार्थे च and स्मृतिशास्त्रे.

37 स्मृतिच० III. p. 22, परा. मा. p. 17, वीर० p. 9, टोडरानन्द. टोडरानन्द reads समुदाचर्यते येन धर्मो वाधर्म एव वा.

38 स्मृतिच० III p. 22, परा. मा III p. 17, वीर० p. 10.

39 वीर० p. 120.

40-41 टोडरानन्द, वीर० p. 120.

विरुद्धं न्यायतो यत्तु चरित्रं कल्प्यते नृपैः ।
एवं तत्र निरस्येत चरित्रं तु नृपाज्ञया ॥ ४२ ॥
अनेन विधिना युक्तं बाधकं यद्यदुत्तरम् ।
अन्यथाबाधनं यत्र तत्र धर्मो विहन्यते ॥ ४३ ॥
अस्वर्ग्या लोकनाशाय परानीकभयावहा ।
आयुर्बीजहरी राज्ञां सति वाक्ये स्वयं कृतिः ॥ ४४ ॥
तस्माच्छास्त्रानुसारेण राजा कार्याणि साधयेत् ।
वाक्याभावे तु सर्वेषां देशदृष्टेन सन्नयेत् ॥ ४५ ॥
यस्य देशस्य यो धर्मः प्रवृत्तः सार्वकालिकः ।
श्रुतिस्मृत्याविरोधेन देशदृष्टः स उच्यते ॥ ४६ ॥
देशपत्तनगोष्ठेषु पुरग्रामेषु वासिनाम् ।
तेषां स्वसमयैर्धर्मशास्त्रतोन्येषु तैः सह ॥ ४७ ॥
देशस्यानुमतेनैव व्यवस्था या निरूपिता ।
लिखिता तु सदा धार्या मुद्रिता राजमुद्रया ॥ ४८ ॥
शास्त्रवद्यत्नतो रक्ष्या तां निरीक्ष्य विनिर्णयेत् ।
नैगमस्थैस्तु यत्कार्यं लिखितं यद् व्यवस्थितम् ॥४९॥
तस्मात्तत्संप्रवर्तेत नान्यथैव प्रवर्तयेत् ॥ ५० ॥
प्रमाणदेशदृष्टं तु यदेवमिति निश्चितम् ।

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42 टोडरानन्द, वीर० p. 121. वीर० reads बुधैः for नृपैः.

43 टोडरानन्द, वीर० p. 121.

44 अपरार्क p. 599, स्मृतिच० III p. 57, वीर० p. 124 (which reads राज्ञामस्ति वाक्येष्वियं कृतिः). स्मृतिच० reads अस्वर्ग्यलोक० and आयुर्वीर्यहरा.

45 अपरार्क p. 599, स्मृतिच. p. 57, परा. मा. III 41, वीर० p 124 स्मृतिच० reads दृष्टं मतं. अपरार्क reads तन्नयेत्. परा. मा. and स्मृतिच० read ०दृष्टमतं नयेत्.

46 स्मृतिच. III 58, परा. मा. III p. 41.

47 स्मृतिच. III. 58, परा. मा. III p. 41. परा. मा. reads वादिनाम् and धर्मः शास्त्रतो &c.

48-49 स्मृतिच० III 58, टोडरानन्द (which reads लेखिता तु सदा कार्या लेखिता राज०).

50-51 टोडरानन्द.

अप्रवृत्तं कृतं यत्र श्रुतिस्मृत्यनुमोदितम् ।
नान्यथा तत्पुनः कार्यं न्यायापेतं विवर्जयेत् ॥ ५१ ॥

(धर्माधिकरणं)

धर्मशास्त्रविचारेण मूलसारविवेचनम् ।
यत्राधिक्रियते स्थाने धर्माधिकरणं हि तत् ॥ ५२ ॥
प्रातरुत्थाय नृपतिः शौचं कृत्वा समाहितः ।
गुरुं ज्योतिर्विदं वैद्यान्देवान्विप्रान्पुरोहितान् ॥५३॥
यथार्हमेतान्संपूज्य सुपुष्पाभरणाम्बरैः ।
अभिवन्द्य च गुर्वादीन् सुमुखां प्रविशेत् सभाम् ।।५४॥
विनीतवेषो नृपतिः सभां गत्वा समाहितः ।
आसीनः प्राङ्मुखः स्थित्वा पश्येत्कार्याणि कार्यिणाम् ।
सह त्रैविद्यवृद्धैश्च मन्त्रज्ञैश्चैव मन्त्रिभिः ॥ ५५ ॥
सप्राड्विवाकः सामात्यः सब्राह्मणपुरोहितः ।
ससभ्यः प्रेक्षको राजा स्वर्गे तिष्ठति धर्मतः ॥ ५६ ॥
सह सभ्यैः स्थिरैर्युक्तैः प्राज्ञैर्मौलैर्द्विजोत्तमैः ।
धर्मशास्त्रार्थकुशलैरर्थशास्त्रविशारदैः ॥ ५७ ॥
कुलशीलवयोवृत्तवित्तवद्भिरमत्सरैः ।
वणिग्भिः स्यात्कतिपयैः कुलभूतैरधिष्ठितम् ॥ ५८ ॥

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52 स्मृतिच० III p. 42, परा. मा. III. p. 22, वीर० p. 11 (which reads धर्मशास्त्रानुसारेण अर्थशास्त्रविवेचनम्).

53-54 परा. मा. III. p. 22. These are ascribed to बृहस्पति by स्मृतिच० (III p. 34).

55 स्मृतिच० III p. 52, व्य. मा. p. 278 (first two lines).

56 मिता० (on या. II. 2), व्य. मा. p. 278, स्मृतिच. III p. 30, परा. मा. III p. 31, वीर० p. 41.

57 मिता० (on या. II. 2), व्य. मा. p. 278, स्मृतिच० III. p. 33, वीर० p. 41. All except व्य. मा. read स तु सभ्यैः, व्य. मा. reads प्रज्ञामूलैः for प्राज्ञैर्मौलैः and युक्तः for युक्तैः. राज. र. p. 87 has the half verse धर्मशा.

58 मिता० (on याज्ञ. II. 2), स्मृतिच. III p. 38, परा. मा. III p. 32, वीर० p. 41, व्यवहारतत्त्व p. 199. स्मृतिच० reads वृत्ति for वृत्त.

श्रोतारो वणिजस्तत्र कर्तव्या न्यायदर्शिनः ॥ ५९ ॥

(कार्यदर्शनकालः)

सभास्थानेषु पूर्वाह्णे कार्याणां निर्णयं नृपः ।
कुर्याच्छास्त्रप्रणीतेन मार्गेणामित्रकर्षणः ॥ ६० ॥
दिवसस्याष्टमं भागं मुक्त्वा कालत्रयं तु यत् ।
स कालो व्यवहाराणां शास्त्रदृष्टः परः स्मृतः ॥ ६१ ॥
आद्यादह्नोष्टभागाद्यदूर्ध्वं भागत्रयं भवेत् ।
स कालो व्यवहारस्य शास्त्रे दृष्टो मनीषिभिः ॥ ६२ ॥

(प्राड्विवाकः)

यदा कुर्यान्न नृपतिः स्वयं कार्यविनिर्णयम् ।
तदा तत्र नियुञ्जीत ब्राह्मणं शास्त्रपारगम् ॥ ६३ ॥
दक्षं कुलीनमध्यस्थमनुद्वेगकरं स्थिरम् ।
परत्र भीरुं धर्मिष्ठमुद्युक्तं क्रोधवर्जितम् ॥ ६४ ॥
अक्रूरो मधुरः स्निग्धः क्षमायातो विचक्षणः ।
उत्साहवानलुब्धश्च वादे योज्यो नृपेण तु ॥ ६५ ॥
एकशास्त्रमधीयानो न विद्यात्कार्यनिश्चयम् ।
तस्माद्बह्वागमः कार्यो विवादेषूत्तमो नृपैः ॥ ६६ ॥

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59 स्मृतिच० III p. 38, परा. मा. III p. 31, वीर० p. 41. स्मृतिच० reads न्यायदर्शने.

60 व्य. मा. p. 284, वीर० p. 28. व्य. मा. reads सभास्थाने तु and शास्त्रप्रमाणेन.

61 व्य. मा. p. 284, वीर० p. 28, परा. मा. III. p. 23, व्यवहारतत्त्व p. 200.

62 अपरार्क p. 601; स्मृतिच० III p. 60.

63 व्य. मा. p. 279, स्मृतिच० III p. 36, राज. र. p. 18, वीर० p. 33. व्य. मा. and राज० र. read यदि कार्यवशाद्राजा न पश्येत्कार्यनिर्णयम्. व्यवहारतत्त्व p. 198 reads यदा कार्यवशा...र्णयम् (as व्य. मा. does).

64 मिता०(on या. II 3.), स्मृतिच. III p. 36, व्य. मा. p. 279, वीर. p. 33. मिता and व्य. मा. read दान्तं कुलीनम्.

65 स्मृतिच. III p. 36, परा. मा. III 29 (not cited as कात्यायन's but from स्मृत्यन्तर).

66 अपरार्क p. 601, स्मृतिच० III p. 36, राज. र. p. 23, वीर. p. 33. अपरार्क reads एकं शास्त्रमधीते यो न and राज. र. reads एवं शास्त्र०; राज. र. reads तस्माद्बुगागमः कार्यो विवादेनोत्तमो.

ब्राह्मणो यत्र न स्यात्तु क्षत्रियं तत्र योजयेत् ।
वैश्यं वा धर्मशास्त्रज्ञं शूद्रं यत्नेन वर्जयेत् ॥ ६७ ॥
अतोऽन्यैर्यत्कृतं कार्यमन्यायेन कृतं तु तत् ।
नियुक्तैरपि विज्ञेयं दैवाद्यद्यपि शास्त्रतः ॥ ६८ ॥
व्यवहाराश्रितं प्रश्नं पृच्छति प्राडिति स्थितिः ।
विवेचयति यस्तस्मिन्प्राड्विवाकस्ततः स्मृतः ॥ ६९ ॥
अनिर्णीते तु यद्यर्थे संभाषेत रहोऽर्थिना ।
प्राड्विवाकोऽथ दण्डयः स्यात्सभ्याश्चैव विशेषतः ॥७०॥

(सभ्याः)

अलुब्धा धनवन्तश्च धर्मज्ञाः सत्यवादिनः ।
सर्वशास्त्रप्रवीणाश्च सभ्याः कार्या द्विजोत्तमाः ॥ ७१ ॥
न्यायशास्त्रमतिक्रम्य सभ्यैर्यत्र विनिश्चितम् ।
तत्र धर्मो ह्यधर्मेण हतो हन्ति न संशयः ॥ ७२ ॥
यत्र धर्मो ह्यधर्मेण सत्यं यत्रानृतेन च ।
हन्यते प्रेक्षमाणानां हतास्तत्र सभासदः ॥ ७३ ॥
अधर्मतः प्रवृत्तं तु नोपेक्षेरन् सभासदः ।
उपेक्षमाणाः सनृपा नरकं यान्त्यधोमुखाः ॥ ७४ ॥

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67 मिता. (on या. II. 3), अपरार्क p. 601, व्य. मा. p. 279, राज. र. p. 23, परा. मा. III. p. 29. अपरार्क and वीर० and कुल्लूक (on मनु 8.20) read यत्र विप्रो न विद्वान् स्यात् and व्य. मा. p. 279 reads यदि विप्रो न and राज. र. reads यत्र विद्वाञ्च विप्रः स्यात्. स्मृतिच० (III p. 37) gives यत्र विप्रो न विद्वान् स्यात् and ब्राह्मणो यत्र न स्यात्तु as two different verses of कात्यायन, though the last three pādas of each are the same.

68 अपरार्क p. 601, राज. र. p. 23, व्यवहारतत्त्व p. 198.

69 व्य. मा. p. 278, अपरार्क p. 602 (quotes it as from वृद्धबृहस्पति).

70 स्मृतिच० III p. 51, स. वि. p. 69, परा. मा. III p. 35, व्य. मा. p. 283 (which reads यद्यर्थं...रहोऽर्थिनं). स्मृतिच. and व्य. मा. read ०श्चैव न संशयः.

71 अपरार्क p. 601, राज. र. p. 23 (which reads कार्या नृपैर्द्विजाः)

72 अपरार्क p. 604, स्मृतिच० III p. 47, परा. मा. III p. 32.

73 अपरार्क p. 604. This is मनु 8. 14.

74 स्मृतिच. III. p. 47, परा. मा III p. 33, अपरार्क p. 604, राज. र. p. 25. परा. मा. reads अपन्यायप्रवृत्तम्.

अन्यायेनापि तं यान्तं येनुयान्ति सभासदः ।
तेपि तद्भागिनस्तस्माद् बोधनीयः स तैर्नृपः ॥ ७५ ॥
न्यायमार्गादपेतं तु ज्ञात्वा चित्तं महीपतेः ।
वक्तव्यं तत्प्रियं तत्र न सभ्यः किल्बिषी भवेत् ॥७६॥
सभ्येनावश्यवक्तव्यं धर्मार्थसहितं वचः ।
शृणोति यदि नो राजा स्यात्तु सभ्यस्ततोनघः ॥७७ ॥
अधर्माय यदा राजा नियुञ्जीत विवादिनाम् ।
विज्ञाप्य नृपतिं सभ्यस्तदाकार्यं निवर्तयेत् ॥ ७८ ॥
स्नेहादज्ञानतो वापि लोभाद्वा मोहतोपि वा ।
तत्र सभ्योन्यथावादी दण्डयोऽसभ्यः स्मृतो हि सः ।७९।
कार्यस्य निर्णयं सम्यग्ज्ञात्वा सभ्यस्ततो वदेत् ।
अन्यथा नैव वक्तव्यं वक्ता द्विगुणदण्डभाक् ॥ ८० ॥
सभ्यदोषात्तु यन्नष्टं देयं सभ्येन तत्तदा ।
कार्यं तु कार्यिणामेव निश्चितं न विचालयेत् ॥ ८१ ॥

(कार्यनिर्णेतॄणां गुरुलाघवम्)

कुलानि श्रेणयश्चैव गणस्त्वधिकृतो नृपः ।
प्रतिष्ठा व्यवहाराणां गुर्वेभ्यस्तूत्तरोत्तरम् ॥ ८२ ॥

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75 मिता० (on या. II), स्मृतिच. III p. 47, परा. मा. III. p. 33, अपरार्क p. 604, राज. र. p. 25. अपरार्क and राज. र. read अन्यायतो यियासन्तं; स्मृतिच० reads बोधनीयः शनैर्नृपः.

76 स्मृतिच० III p. 47, राज. र. p. 25, परा. मा. III p. 33, टोडरानन्द (which reads वक्तव्यं तत्प्रियं नात्र). स्मृतिच. reads मतः for भवेत्. राज. र. reads वक्तव्यं तु प्रियं नात्र. परा. मा. reads कर्तव्यं for वक्तव्यम्.

77 स्मृतिच० III. 49, परा मा. III p. 33, राज र. p. 25, व्यवहारतत्त्व p. 199 (reads तदानृणः).

78 राज. र. p. 24.

79 स्मृतिच० III. p. 50, अपरार्क p. 603, परा. मा. III. p. 34. स्मृतिच० reads मोहाद्वा लोभतोपि वा.

80 स्मृतिच० III. p. 50, अपरार्क p. 603.

81 स्मृतिच. III. p. 51, स. वि. p. 69 (कारिणामेव for कार्यिणामेव).

82 व्य. मा. p. 280 (which ascribes it to मनु and कात्या०). This is नारद I. 7.

तपस्विनां तु कार्याणि त्रैविद्यैरेव कारयेत् ।
मायायोगविदां चैव न स्वयं कोपकारणात् ॥ ८३ ॥
सम्यग्विज्ञानसंपन्ने नोपदेशं प्रकल्पयेत् ।
उत्कृष्टजातिशीलानां गुर्वाचार्यतपस्विनाम् ॥ ८४ ॥
गोत्रस्थितिस्तु या तेषां क्रमादायाति धर्मतः ।
कुलधर्मं तु तं प्राहुः पालयेत्तं तथैव तु ॥ ८५ ॥

(प्रश्नप्रकारः)

काले कार्यार्थिनं पृच्छेत् प्रणतं पुरतः स्थितम् ।
किं कार्यं का च ते पीडा मा भैषीर्ब्रूहि मानव ॥ ८६ ॥
केन कस्मिन्कदा कस्मात् पृच्छेदेवं सभागतः ।
एवं पृष्टः स यद् ब्रूयात्तत्सभ्यैर्ब्राह्मणैः सह ॥ ८७ ॥
विमृश्य कार्यं न्याय्यं चेदाह्वानार्थमतः परम् ।
मुद्रां वा निक्षिपेत्तस्मिन् पुरुषं वा समादिशेत् ॥८८॥

(प्रतिनिधिः)

समर्पितोर्थिना योन्यः परो धर्माधिकारिणि ।
प्रतिवादी स विज्ञेयः प्रतिपन्नश्च यः स्वयम् ॥ ८९ ॥

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83 व्य. मा. p. 281 (attributes to both बृहस्पति and कात्यायन). वीर० p. 30 ascribes it to बृहस्पति.

84 वीर० p. 31.

85 वीर० p. 29.

86 स्मृतिच० III p. 70, व्य. मा. p. 286, परा. मा. III. p. 52, वीर. p. 47 मिता० (on या. III. 5) quotes this and the following two as from स्मृत्यन्तर. अपरार्क also p. 605 quotes them without citing the name. स. वि. p. 75 quotes this verse as कात्यायन's gloss on the words 'केन कस्मिन् कदा...गतः' which it attributes to मनु.

87 स्मृतिच० III p. 70, परा. मा. III p. 52, वीर० p. 47 (which reads सभागतम्), व्य. मा. p. 286 (first half).

88 मिता० (on या. II. 5), अपरार्क p. 605, स्मृतिच० III. p. 72, परा. मा. III. p. 55, वीर० p. 52.

89 स्मृतिच० III p. 72, अपरार्क p. 639, स. वि. p. 80.

अधिकारोभियुक्तस्य नेतरस्यास्त्यसङ्गतेः।
इतरोप्यभियुक्तेन प्रतिरोधीकृतो मतः ॥ ९० ॥
अर्थिना संनियुक्तो वा प्रत्यर्थिप्रहितोपि वा।
यो यस्यार्थे विवदते तयोर्जयपराजयौ ॥ ९१ ॥
दासाः कर्मकराः शिष्या नियुक्ता बान्धवास्तथा।
वादिनो न च दण्ड्याः स्युः यस्त्वतोन्यः स दण्डभाक् ॥ ९२ ॥
ब्रह्महत्यासुरापानस्तेयगुर्वङ्गनागमे।
अन्येषु चातिपापेषु प्रतिवादी न दीयते ॥ ९३ ॥
मनुष्यमारणे स्तेये परदाराभिमर्शने।
अभक्ष्यभक्षणे चैव कन्याहरणदूषणे ॥ ९४ ॥
पारुष्ये कूटकरणे नृपद्रोहे तथैव च।
प्रतिवादी न दातव्यः कर्ता तु विवदेत्स्वयम् ॥ ९५ ॥

(आह्वानं)

धर्मोत्सुकानभ्युदये रोगिणोथ जडानपि।
अस्वस्थमत्तोन्मत्तार्तस्त्रियो नाह्वानयेन्नृपः ॥ ९६ ॥

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90 स्मृतिच० III. p. 73, अपरार्क p. 639 (which reads प्रहितोधिकृतो मतः), वीर० p. 52 (first half), स. वि. p. 80.

91 व्य. मा. p. 287 (ascribes it to नारद and कात्यायन), अपरार्क p. 639, स्मृतिच० III. p. 71, परा. मा. III p. 53, वीर० p. 48. कृत्यकल्पतरु ascribes it to नारद and कात्यायन.

92 अपरार्क p. 639, स्मृतिच० III p. 71, परा. मा. III. p. 54.

93 व्य. मा. p. 287, अपरार्क p. 639, स्मृतिच. III. p. 75, वीर० p. 54. अपरार्क reads ' अन्येष्वसह्यवादिषु ' and स्मृतिच. reads अन्येष्वसभ्य० and व्य. मा. reads अन्योन्यसङ्घ०.

94 व्य. मा. p. 287, अपरार्क p. 639, स्मृतिच० III p. 75, वीर. p. 54, व्यवहारतत्त्व p. 200.

95 व्य. मा. p. 287, अपरार्क p. 639 (reads न दाप्यः स्यात्), वीर० p. 54 (reads कर्तापि), स्मृतिच० III p. 75 (reads दाप्यः स्यादर्थिप्रत्यर्थिनोरपि), व्यवहारतत्त्व p. 200.

96 स्मृतिच० III. 74, परा. मा. III. p. 51. वीर. p. 52 ascribes अकल्पबालस्थविरविषमस्थाक्रियाकुलान्। कार्यातिपातिव्यसनिनृपकार्योत्सवाकुलान्। मत्तोन्मत्तप्रमत्तार्तभृत्यान्नाह्वानयेन्नृपः to कात्यायन, but they are omitted here, as these are ascribed to हारीत by स्मृतिच० and परा. मा. and to नारद by व्य. म.

न हीनपक्षां युवतिं कुले जातां प्रसूतिकाम् ।
सर्ववर्णोत्तमां कन्यां ता ज्ञातिप्रभुकाः स्मृताः ॥ ९७ ॥
तदधीनकुटुम्बिन्यः स्वैरिण्यो गणिकाश्च याः ।
निष्कुला याश्च पतितास्तासामाह्वानमिष्यते ॥ ९८ ॥
सशस्त्रोनुत्तरीयो वा मुक्तकेशः सहासनः ।
वामहस्तेन वा वादं वदन्दण्डमवाप्नुयात् ॥ ९९ ॥
आहूतस्त्ववमन्येत यः शक्तो राजशासनम् ।
तस्य कुर्यान्नृपो दण्डं विधिदृष्टेन कर्मणा ॥ १०० ॥
हीने कर्मणि पञ्चाशन्मध्यमे द्विशतावरः ।
गुरुकार्येषु दण्डः स्यान्नित्यं पञ्चशतावरः ॥ १०१ ॥
कल्पितो यस्य यो दण्डस्त्वपराधस्य यत्नतः ।
पणानां ग्रहणं तु स्यात्तन्मूल्यं वाथ राजनि ॥ १०२ ॥

(आसेधः)

उत्पादयति यो हिंसां देयं वा न प्रयच्छति ।
याचमानाय दौःशील्यादाकृष्योसौ नृपाज्ञया ॥ १०३ ॥
आवेद्य तु नृपे कार्यमसंदिग्धे प्रतिश्रुते ।
तदासेधं प्रयुञ्जीत यावदाह्वानदर्शनम् ॥ १०४ ॥

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97 स्मृतिच॰ III. 74, परा. मा. III p. 51 (which reads स्वजातिप्रभुकां चैव तथा नाह्वानयेन्नृपः), वीर. p. 52. मिता॰ on या. II. 5. cites this as स्मृत्यन्तर.

98 स्मृतिच॰ III. p. 74, परा मा. III. p. 51, वीर॰ p. 53. मिता॰ on या. II. 5. cites as स्मृत्यन्तर.

99 अपरार्क p. 605, व्य. मा. p. 286, स. वि. 76. अपरार्क reads 'वा स्रग्वी,' for वा वादं; व्य. मा. reads मुक्तकच्छः.

100 अपरार्क p. 607, स्मृतिच III. p. 76, परा, मा. III. p. 51.

101 अपरार्क p. 607, स्मृतिच॰ III p. 76, परा. मा. III p. 51. अपरार्क reads मध्यमेन शतावरम् and पञ्चशतावरम्; परा. मा. reads मध्यमे तु शतावरः.

102 स्मृतिच॰ III. p. 76, स. वि. p. 82 (reads शक्तितः for यत्नतः).

103 वीर॰ p. 55. स्मृतिच॰ III. p. 76 ascribes it to व्यास.

104 वीर॰ p. 55.

आसेधयोग्य आसिद्ध उत्क्रामन्दण्डमर्हति ॥ १०५ ॥

(अनासेध्याः)

यस्त्विन्द्रियनिरोधेन व्याहारोच्छ्वसनादिभिः ।
आसेधयेदनासेध्यं स दण्डयो न त्वतिक्रमी ॥ १०६ ॥
वृक्षपर्वतमारूढा हस्त्यश्वरथनौस्थिताः ।
विषमस्थाश्च ते सर्वे नासेध्याः कार्यसाधकैः ॥ १०७ ॥
व्याध्यार्ता व्यसनस्थाश्च यजमानास्तथैव च ।
अनुत्तीर्णाश्च नासेध्या मत्तोन्मत्तजडास्तथा ॥ १०८ ॥
न कर्षको बीजकाले सेनाकाले तु सैनिकः ।
प्रतिज्ञाय प्रयातश्च कृतकालश्च नान्तरा ॥ १०९ ॥
उद्युक्तः कर्षकः सस्ये तोयस्यागमने तथा ।
आरम्भात्संग्रहं यावत्तत्कालं न विवादयेत् ।
आसेधयंस्त्वनासेध्यं राज्ञा शास्य इति स्थितिः ॥११०॥
अभियुक्तश्च रुद्धश्च तिष्ठेयुश्च नृपाज्ञया ।
न तस्यान्येन कर्तव्यमभियुक्तं विदुर्बुधाः ॥ १११ ॥
एकाहद्व्यहाद्यपेक्षं देशकालाद्यपेक्षया ।
दूताय साधिते कार्ये तेन भक्तं प्रदापयेत् ॥ ११२ ॥

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105 वीर० p. 56. स्मृतिच० III. p. 68 ascribes it to व्यास.

106 स्मृतिच० III. p. 67, परा. मा. III. p. 48, वीर० p. 56, व्य. मा. p. 9. परा. मा. reads व्यवहारोत्सवादिभिः, अनासेध्यैः, and अतिक्रमात्. व्य. म. has the last two, वीर० has अनासेध्यैः and अतिक्रमम्.

107 स्मृतिच० III p. 68., परा. मा. III p. 48, वीर० p. 56.

108 स्मृतिच० III p. 68, परा. मा. III p. 49, वीर० p. 56 (has first half).

109 स्मृतिच० III. p. 68, परा. मा. III p. 49, कृत्यकल्पतरु (has latter half).

110 कृत्यकल्पतरु, स्मृतिच० III p. 69, परा. मा. III 49 (which reads वाप-स्यागमने), वीर. p. 56 (last line), व्य. म. p. 9 (last line). The first three omit the last line.

111 कृत्यकल्पतरु.

112 वीर० p. 57, अपरार्क p. 607 (reads नेता for तेन) has latter half only.

देशकालवयःशक्त्याद्यपेक्षं भोजनं स्मृतम् ।
आकारकस्य सर्वत्र इति तत्त्वविदो विदुः ॥ ११३ ॥

(प्रतिभूत्वेनाग्राह्याः)

न स्वामी न च वै शत्रुः स्वामिनाधिकृतस्तथा ।
निरुद्धो दण्डितश्चैव संशयस्थाश्च न क्वचित् ॥ ११४ ॥
नैव रिक्थी न रिक्तश्च न चैवात्यन्तवासिनः ।
राजकार्यनियुक्तश्च ये च प्रव्रजिता नराः ॥ ११५ ॥
नाशक्तो धनिने दातुं दण्डं राज्ञे च तत्समम् ।
जीवन्वापि पिता यस्य तथैवेच्छाप्रवर्तकः ।
नाविज्ञातो ग्रहीतव्यः प्रतिभूत्वक्रियां प्रति ॥ ११६ ॥
अथ चेत्प्रतिभूर्नास्ति वादयोग्यस्य वादिनः ।
स रक्षितो दिनस्यान्ते दद्याद् दूताय वेतनम् ॥११७॥
द्विजातिः प्रतिभूहीनो रक्ष्यः स्याद् बाह्यचारिभिः ।
शूद्रादीन्प्रतिभूहीनान् बन्धयेन्निगडेन तु ॥ ११८ ॥

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113 वीर० p. 57, अपरार्क p 607 (reads देशः कालो वयः शक्तिरपेक्ष्या भोजने तथा and धर्मविदो for तत्वविदो)

114 स्मृतिच० III. p. 78 (and p. 318), मिता० (on या. II. 57), वि. र. p. 39, परा. मा. III. p. 57 and pp. 253-254, वीर० p. 58 and 330 (has 114-116). परा. मा. at p. 254 reads ' निरुद्धो दण्डितश्चैव शिल्पिनश्चाब्रवीद्भृगुः' and adds देशाचारेण दाप्याः स्युर्दुष्टान् संपीड्य दापयेत्"

115 स्मृतिच० III.p. 78 and 318, वि. र. p. 39, परा. मा. III. p. 57 and also p. 254, वीर० p. 58. वि. र., परा. मा. p. 254 and मिता० read मित्रं च for रिक्तश्च.

116 मिता० (on या. II. 57), स्मृतिच० III. p. 78, परा. मा. III p. 57, वि. र. p. 39. मिता० and वि. र० read प्रतिभूः स्वक्रियां प्रति and परा० मा. reads प्रतिभूस्तत्क्रियां. All except मिता० omit the half जीवन्वापि &c.

117 मिता० (या. II. 10), व्य. मा. p. 289, स्मृतिच० III p. 78, परा. मा. III. 58, वीर० p. 59, स. वि. p. 83, व्यवहारतत्त्व p. 202. व्य. मा. reads वादयोग्यश्च; मिता० reads कार्ययोग्यस्तु; वीर० and परा. मा. read भृत्याय for दूताय; स. वि. reads सार्थयोर्यस्य वादिनः; व्यवहारतत्त्व reads योग्यस्तु वादिनोः which is a good reading.

118 परा. मा. III. p. 58

अतिक्रमेपयाते च दण्डयेत्तं पणाष्टकम् ।
नित्यकर्मोपरोधस्तु न कार्यः सर्ववर्णिनाम् ॥११९॥
ग्रहीतग्रहणो न्याये न प्रवर्त्यो महीभृता ।
तस्य वा तत्समर्थ्यं स्यात्स्थापयेद्वा परस्य तत् ॥१२०॥

(अभियोक्त्रादीनामुक्तिक्रमः)

तत्राभियोक्ता प्राग्ब्रूयादभियुक्तस्त्वनन्तरम् ।
तयोरन्ते सदस्यास्तु प्राड्विवाकस्ततः परम् ॥ १२१ ॥
यस्य स्यादधिका पीडा कार्यं वाप्यधिकं भवेत् ।
पूर्वपक्षो भवेत्तस्य न यः पूर्वं निवेदयेत् ॥१२२॥
यस्य वार्थगता पीडा शारीरी वाधिका भवेत् ।
तस्यार्थिवादो दातव्यो न यः पूर्वं निवेदयेत् ॥ १२३ ॥

(प्रतिज्ञास्वरूपम्)

निवेश्य कालं वर्षं च मासं पक्षं तिथिं तथा ।
वेलां प्रदेशं विषयं स्थानं जात्याकृती वयः ॥ १२४ ॥
साध्यप्रमाणं द्रव्यं च संख्यां नाम तथात्मनः ।
राज्ञां च क्रमशो नाम निवासं साध्यनाम च ॥ १२५ ॥

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119 परा. मा. III p. 58

120 व्य. मा. p. 287, स्मृतिच० III p. 78, टोडरानन्द. व्य. मा. and टोडरानन्द read न्यायो for न्याये, तस्यैव for तस्य वा and परत्र for परस्य.

121 अपरार्क p. 611, स्मृतिच० III p. 79, परा. मा. III p. 58, वीर० p. 57, व्य. मा. p. 289 (reads तयोरुक्तौ for तयोरन्ते), स. वि. p. 83.

122 व्य. मा. p. 290, व्यवहारतत्त्व p. 200, परा. मा. III p. 59, स्मृतिच० III p. 79, स. वि. p. 83 (reads one verse as यस्य वाप्यधिका पीडा अकार्यं वाधिकं भवेत् । तस्यार्थिवादो०).

123 व्य. मा. p. 291, स्मृतिच० III p. 79, परा. मा. III p. 59. स्मृतिच० reads कार्यं वा ह्यधिकं भवेत् and परा. मा. read कार्यं वाभ्यधिकं.

124 विश्वरूप (on या. II 6), व्य. मा. p. 295, अपरार्क p. 608, स्मृतिच० III p. 81, परा. मा. III p. 62, वीर० p. 62. परा. मा. reads प्रवेशं for प्रदेशं and अपरार्क reads वेलां प्रदेयं विषयं; विश्वरूप has लेखाप्रदेशं.

125 विश्वरूप (on या. II 6), व्य.मा. p. 295, अपरार्क p. 608, परा. मा. III p.62, स्मृतिच० III p. 81, वीर० p. 62. विश्वरूप reads साध्यार्थमानं; स्मृतिच० reads साध्यद्रव्यप्रमाणं; वीर० and अपरार्क read साध्यं प्रमाणं द्रव्यं च; व्य. मा. reads साध्यमेव च.

क्रमात्पितॄणां नामानि पीडां चाहर्तृदायकौ ।
क्षमालिङ्गानि चान्यानि पक्षं संकीर्त्य कल्पयेत् ॥१२६॥
देशश्चैव तथा स्थानं संनिवेशस्तथैव च ।
जातिः संज्ञा निवासश्च प्रमाणं क्षेत्रनाम च ॥ १२७ ॥
पितृपैतामहं चैव पूर्वराजानुकीर्तनम् ।
स्थावरेषु विवादेषु दशैतानि निवेशयेत् ॥ १२८ ॥
रागादीनां यदेकेन कोपितः करणे वदेत् ।
तदोमिति लिखेत्सर्वं वादिनः फलकादिषु ॥ १२९ ॥
अधिकान् शोधयेदर्थान् न्यूनांश्च प्रतिपूरयेत् ।
भूमौ निवेशयेत्तावद्यावत्पक्षः प्रतिष्ठितः ॥ १३० ॥
पूर्वपक्षं स्वभावोक्तं प्राड्विवाकोभिलेखयेत् ।
पाण्डुलेखेन फलके ततः पत्रे विशोधितम् ॥ १३१ ॥
अन्यदुक्तं लिखेदन्यद्योर्थिप्रत्यर्थिनां वचः ।
चौरवच्छासयेत्तं तु धार्मिकः पृथिवीपतिः ॥ १३२ ॥
सोल्लेखनं वा लभते त्र्यहं सप्ताहमेव वा ।
मतिरुत्पद्यते यावद्विवादे वक्तुमिच्छतः ॥ १३३ ॥

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126 विश्वरूप, अपरार्क p.608, व्य. मा. p. 295, परा. मा. III p. 62, स्मृतिच॰ III. p. 81, वीर॰ p. 62. व्य. मा. reads लेखयेत् for कल्पयेत्. विश्वरूप reads क्षमालिङ्गाद्यादिकालं.

127-128 अपरार्क p. 608, स्मृतिच॰ III. p. 84, परा. मा. III. 62, वीर॰ p. 64. परा. मा. reads देशं कालं तथात्मानं संनिवेशं and जातिसंज्ञाधिवासांश्च.

129 टोडरानन्द (which ascribes it to both नारद and कात्यायन); स. दि p. 79 (which ascribes it to गोभिल) reads आर्थिनः for वादिनः.

130 विश्वरूप (on या. II. 6), अपरार्क p. 611, स्मृतिच॰ III. p. 90, परा. मा. III 65. अपरार्क and परा. मा. read छातयेत् and last pāda as यावदर्थोभिवर्णितः; परा. मा. reads छेदयेत् and प्रतिपूजयेत्; स्मृतिच॰ reads छेदयेत्.

131 मिता॰ (on या. II. 6), अपरार्क p. 611, परा. मा. III. p. 67, स्मृतिच॰ III. p. 9, व्यवहारतत्त्व p. 204.

132 वीर॰ p. 71 (which reads त्रासयेत् for शासयेत्), व्य. मा. p. 297, व्यवहारतत्त्व p. 204.

133 परा. मा. III. p. 66.

यस्मात्कार्यसमारम्भाच्चिरात्तेन विनिश्चयः ।
तस्मान्न लभते कालमभियुक्तस्तु कालभाक् ॥ १३४ ॥
मतिर्नोत्सहते यत्र विवादे कार्यमिच्छतोः ।
दातव्यस्तत्र कालः स्यादर्थिप्रत्यर्थिनोरपि ॥ १३५ ॥

प्रतिज्ञादोषाः (पूर्वपक्षदोषाः)

यश्च राष्ट्रविरुद्धश्च यश्च राज्ञा विवर्जितः ।
अनेकपदसंकीर्णः पूर्वपक्षो न सिध्यति ॥ १३६ ॥
बहुप्रतिज्ञं यत्कार्यं व्यवहारेषु निश्चितम् ।
कामं तदपि गृह्णीयाद्राजा तत्त्वबुभुत्सया ॥ १३७ ॥
देशकालविहीनश्च द्रव्यसंख्याविवर्जितः ।
साध्यप्रमाणहीनश्च पक्षोनादेय इष्यते ॥ १३८ ॥
न्यायस्थं नेच्छते कर्तुमन्यायं वा करोत्ययम् ।
न लेखयति यस्त्वेवं तस्य पक्षो न सिध्यति ॥ १३९ ॥
अप्रसिद्धं निराबाधं निरर्थं निष्प्रयोजनम् ।
असाध्यं वा विरुद्धं वा पक्षाभासं विवर्जयेत् ॥ १४० ॥

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134 व्य. मा. p. 290, व्यवहारतत्त्व p. 203 (reads विनिश्चितः).

135 व्य. मा. p. 290.

136 विश्वरूप (on या. II. 5), मिता० (on या. II. 6), व्य. मा. p. 296, अपरार्क p. 609, स्मृतिच० III. 89, परा. मा. III. p. 65, वीर० p. 68. अपरार्क, स्मृतिच०, परा. मा. and वीर० read पुरराष्ट्रविरुद्धश्च.

137 मिता० (on या. II. 6.), अपरार्क p. 609, व्य. मा. p. 296, स्मृतिच० III p. 89, परा. मा. III p. 65, वीर. 69, स. वि. p. 89. व्य. मा. reads व्यवहारेष्वनिश्चितम्; स्मृतिच० reads व्यवहारे सुनिश्चितम्.

138 अपरार्क p. 609 (not named), स्मृतिच० III p. 84, व्य. मा. p. 297, परा. मा. III p. 61, वीर० p. 64, स. वि. p. 87. स्मृतिच० and स. वि. read क्रियाप्रमाणहीनश्च, वीर० reads क्रियामानविहीनश्च.

139 विश्वरूप on या. II 6 (no name), स्मृतिच० III p. 88, वीर० p. 69. विश्वरूप reads न्यायं मे नेच्छते and वीर० reads न्यायं संयच्छते.

140 विश्वरूप on या. II 6 (no name), मिता० on या. II 6 (no name), वीर० p. 66, परा. मा. III 61 and व्य. मा. p. 13 (as स्मृत्यन्तर). विश्वरूप reads सदोषं च for निराबाधं and पक्षं राजा विवर्जयेत्.

प्रतिज्ञादोषनिर्मुक्तं साध्यं सत्कारणान्वितम् ।
निश्चितं लोकसिद्धं च पक्षं पक्षविदो विदुः ॥ १४१ ॥
स्वल्पाक्षरः प्रभूतार्थो निःसंदिग्धो निराकुलः ।
विरोधिकारणैर्मुक्तो विरोधिप्रतिषेधकः ॥ १४२ ॥
यदा त्वेवंविधः पक्षः कल्पितः पूर्ववादिना ।
दद्यात्तत्पक्षसंबद्धं प्रतिवादी तदोत्तरम् ॥ १४३ ॥
श्राव्यमाणोर्थिना यत्र यो ह्यर्थो न विघातितः ।
दानकालेथवा तूष्णीं स्थितः सोर्थोनुमोदितः ॥ १४४ ॥

(उत्तरं सद्यो दातव्यं कालान्तरेण वा दातव्यम्)

श्रुत्वा लेख्यगतं त्वर्थं प्रत्यर्थी कारणाद्यदि ।
कालं विवादे याचेत तस्य देयो न संशयः ॥ १४५ ॥
सद्यो वैकाहपञ्चाहत्र्यहं वा गुरुलाघवात् ।
लभेतासौ त्रिपक्षं वा सप्ताहं वा ऋणादिषु ॥ १४६ ॥
कालं शक्तिं विदित्वा तु कार्याणां च बलाबलम् ।
अल्पं वा बहु वा कालं दद्यात्प्रत्यर्थिने प्रभुः ॥ १४७ ॥

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141 विश्वरूप on या. II 6 (no name), कृत्यकल्पतरु (ascribes this and the following two verses to both कात्यायन and बृहस्पति), व्य. मा. p. 291 (ascribes this and the next to both कात्या० and बृह०), व्यवहारतत्त्व p. 203 (ascribes 141–143 to both), टोडरानन्द, परा. मा. III p. 61 (which ascribes this and the next to बृहस्पति). अपरार्क p. 610 ascribes to बृहस्पति; so does स्मृतिच० III p. 90.

142 कृत्यकल्पतरु, व्य. मा. p. 291, टोडरानन्द (which reads विरोधिकरणैः and प्रतिरोधकः), परा. मा. III 61 (which reads अल्पाक्षरस्त्वसन्दिग्धो बह्वर्थश्चाप्यनाकुलः । युक्तो विरोधिकरणे), व्यवहारतत्त्व p. 203-204.

143 कृत्यकल्पतरु, टोडरानन्द, व्यवहारतत्त्व p. 204.

144 कृत्यकल्पतरु.

145 अपरार्क p. 619, स्मृतिच० III p. 94, व्य. मा. p. 298, परा. मा. III p. 69, वीर० p. 138. व्य. मा. reads लेखयते for लेख्यगतं; अपरार्क and वीर० read लेखयतो.

146 व्य. मा. p. 298, स्मृतिच० III p. 95 (which reads सद्य एकाहपञ्चाहौ).

147 स्मृतिच० III p. 95, व्य. मा. p. 298.

दिनं मासार्धमासौ वा ऋतुः संवत्सरोपि वा ।
क्रियास्थित्यनुरूपस्तु देयः कालः परेण तु ॥ १४८ ॥
व्यपैति गौरवं यत्र विनाशस्त्याग एव वा ।
कालं तत्र न कुर्वीत कार्यमात्ययिकं हि तत् ॥ १४९ ॥
धेनावनडुहि क्षेत्रे स्त्रीषु प्रजनने तथा ।
न्यासे याचितके दत्ते तथैव क्रयविक्रये ॥ १५० ॥
कन्याया दूषणे स्तेये कलहे साहसे निधौ ।
उपधौ कौटसाक्ष्ये च सद्य एव विवादयेत् ॥ १५१ ॥
साहसस्तेयपारुष्यगोभिशापे तथात्यये ।
भूमौ विवादयेत् क्षिप्रमकालेपि बृहस्पतिः ॥ १५२ ॥
सद्यः कृतेषु कार्येषु सद्य एव विवादयेत् ।
कालातीतेषु वा कालं दद्यात्प्रत्यर्थिने प्रभुः ॥ १५३ ॥
सद्यः कृते सद्य एव मासातीते दिनं भवेत् ।
षडाब्दिके त्रिरात्रं स्यात्सप्ताहं द्वादशाब्दिके ॥ १५४ ॥
विंशत्यब्दे दशाहं तु मासार्धं वा लभेत सः ।
मासं त्रिंशत्समातीते त्रिपक्षं परतो भवेत् ॥ १५५ ॥
कालं संवत्सरादर्वाक् स्वयमेव यथेप्सितम् ।
संवत्सरं जडोन्मत्तमनस्के व्याधिपीडिते ॥ १५६ ॥

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148 अपरार्क p. 619, स्मृतिच० III p. 96, वीर० p. 138.
149 स्मृतिच० III p. 93, अपरार्क p. 619, वीर० p. 140.
150 अपरार्क p. 619, स्मृतिच० III p. 94, परा. मा. III p. 71, वीर० p. 140.
151 अपरार्क p. 620, स्मृतिच० III p. 94, परा. मा. III p. 72, वीर० p. 140.
152 वीर० p. 140 (ascribes both to बृहस्पति and कात्यायन), परा. मा. III p. 71 (ascribes it to बृहस्पति).
153 स्मृतिच० III p. 94, अपरार्क p. 619, वीर० p. 138 (reads समं कृतेषु कार्येषु), व्यवहारतत्त्व p. 205.
154 अपरार्क p. 619, स्मृतिच० III p. 95, व्य. मा. p. 298, वीर० p. 138. व्य. मा. reads सद्यःकृते सद्योवादः समातीते. परा. मा. III p. 70 ascribes this and the following two verses to बृहस्पति.
155 अपरार्क p. 619, स्मृतिच० III p. 95, व्य. मा. p. 298, वीर० p. 138. अपरार्क reads विंशात्परे for विंशत्यब्दे.
156 स्मृतिच० III p. 95, परा. मा. III p. 70 (latter half), अपरार्क p. 619 (has only first half as कालात्संवत्सरात्).

दिगन्तरप्रपन्ने वा अज्ञातार्थे च वस्तुनि ।
मूलं वा साक्षिणो वाथ परदेशे स्थिता यदा ॥ १५७ ॥
तत्र कालो भवेत्पुंसामा स्वदेशसमागमात् ।
दत्तेपि काले देयं स्यात्पुनः कार्यस्य गौरवात् ॥१५८॥
पूर्वपक्षश्रुतार्थस्तु प्रत्यर्थी तदनन्तरम् ।
पूर्वपक्षार्थसंबन्धं प्रतिपक्षं निवेदयेत् ॥ १५९ ॥
आचारद्रव्यदानेष्टकृत्योपस्थाननिर्णये ।
नोपस्थितो यदा कश्चिच्छलं तत्र न कारयेत् ॥ १६० ॥
दैवराजकृतो दोषस्तस्मिन्काले यदा भवेत् ।
अबाधत्यागमात्रेण न भवेत्स पराजितः ॥ १६१ ॥
दैवराजकृतं दोषं साक्षिभिः प्रतिपादयेत् ।
जैह्म्येन वर्तमानस्य दण्डो दाप्यस्तु तद्धनम् ॥ १६२ ॥
अभियुक्तोभियोक्तारमभियुञ्जीत कर्हिचित् ।
अन्यत्र दण्डपारुष्यस्तेयसंग्रहणात्ययात् ॥ १६३ ॥
यावान्यस्मिन्समाचारः पारंपर्यक्रमागतः ।
तं प्रतीक्ष्य यथान्यायमुत्तरं दापयेन्नृपः ॥ १६४ ॥

(चतुर्विधमुत्तरम्)

सत्यं मिथ्योत्तरं चैव प्रत्यवस्कन्दनं तथा ।
पूर्वन्यायविधिश्चैवमुत्तरं स्याच्चतुर्विधम् ॥ १६५ ॥
श्रुत्वा भाषार्थमन्यस्तु यदा तं प्रतिषेधति ।
अर्थतः शब्दतो वापि मिथ्या तज्ज्ञेयमुत्तरम् ॥ १६६ ॥

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157 स्मृतिच॰ III p. 95, परा. मा. III p. 70, अपरार्क p. 619.
158 स्मृतिच॰ III (first half), परा. मा. III p. 71.
159 व्य. मा. p. 299 (ascribes to कात्यायन and नारद).
160-62 व्य. मा. p. 299.
163 व्य. मा. p. 299.
164 अपरार्क p. 619, स्मृतिच॰ III p. 96, स. वि. p. 92. अपरार्क reads यो वा यस्मिन् and परीक्ष्य for प्रतीक्ष्य.
165 मिता॰ (on या. II 7), व्य. मा. p. 299, वीर॰ p. 74.
166 अपरार्क p. 612, व्य. मा. p. 301, वीर॰ p. 76, व्यवहारतत्त्व p. 207. व्य. मा. reads यदि for यदा.

अभियुक्तोभियोगस्य यदि कुर्यात्तु निह्नवम् ।
मिथ्या तत्तु विजानीयादुत्तरं व्यवहारतः ॥ १६७ ॥
साध्यस्य सत्यवचनं प्रतिपत्तिरुदाहृता ॥ १६८ ॥
मिथ्यैतन्नाभिजानामि तदा तत्र न संनिधिः ।
अजातश्चास्मि तत्काल इति मिथ्या चतुर्विधम् ॥१६९॥
योर्थिनार्थः समुद्दिष्टः प्रत्यर्थी यदि तं तथा ।
प्रपद्य कारणं ब्रूयादाधर्यं गुरुरब्रवीत् ॥ १७० ॥
आचारेणावसन्नोपि पुनर्लेखयते यदि ।
सोभिधेयो जितः पूर्वं प्राङ्न्यायस्तु स उच्यते ॥१७१॥
विभावयामि कुलिकैः साक्षिभिर्लिखितेन वा ।
जितश्चैव मयायं प्राक्प्राङ्न्यायस्त्रिप्रकारकः ॥ १७२ ॥

[उत्तराभासा उत्तरदोषा वा]

अप्रसिद्धं विरुद्धं यदत्यल्पमतिभूरि च ।
संदिग्धासंभवाव्यक्तमन्यार्थं चातिदोषवत् ॥ १७३ ॥
अव्यापकं व्यस्तपदं निगूढार्थं तथाकुलम् ।
व्याख्यागम्यमसारं च नोत्तरं शस्यते बुधैः ॥ १७४ ॥

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167 मिता॰ (on या. II. 7), व्य. मा. p. 301, स्मृतिच॰ III p. 97, वीर॰ p. 75, स. वि. p. 92. मिता॰ and स. वि. read कुर्यादपह्नवम्.

168 मिता॰ on या. II. 7, स्मृतिच॰ III p. 97, स. वि. p. 92. स्मृतिच॰ reads तथ्यवचनं. व्य. मा. p. 300 attributes this to व्यास.

169 मिता॰ (on या. II. 7), अपरार्क p. 612, स्मृतिच॰ III p. 98, स. वि. p. 92. अपरार्क reads तदा मे भूदसंनिधिः.

170 व्य. मा. p. 307, टोडरानन्द, वीर॰ p. 78. वीर॰ reads अर्थिनाभिहितो योर्थः and आधर्यं भृगुरब्रवीत्; टोडरानन्द reads आधर्यं मनुरब्रवीत्. व्य. मा. reads अर्थिनाभिहितो योर्थः and reads last line as प्रस्रवस्कन्दनं हि तत् and ascribes it to बृहस्पति.

171 मिता॰ (on या. II 7), वीर॰ p. 82 (refers to both कात्या॰ and बृह॰).

172 स्मृतिच॰ III p. 98, वीर॰ p. 82.

173 अपरार्क p. 614, स्मृतिच॰ III p. 99, परा. मा. III. p. 73, वीर॰ p. 84.

174 स्मृतिच॰ p. 99. व्यवहारतत्त्व p. 207 reads अस्तव्यस्तपदव्यापि निगूढार्थं and says that भवदेव in his व्यवहारतत्त्व explained अस्तव्यस्तपदव्यापि as अनान्वितार्थपदव्यासं.

यद्व्यस्तपदमव्यापि निगूढार्थं तथाकुलम्।
व्याख्यागम्यमसारं च नोत्तरं स्वार्थसिद्धये ॥ १७५ ॥
चिह्नाकारसहस्रं तु समयं चाविजानता।
भाषान्तरेण वा प्रोक्तमप्रसिद्धं तदुत्तरम् ॥ १७६ ॥
प्रतिदत्तं मया बाल्ये प्रतिदत्तं मया नहि।
यदेवमाह विज्ञेयं विरुद्धं तदिहोत्तरम् ॥ १७७ ॥
जितः पुरा मयायं च त्वर्थेस्मिन्निति भाषितुम्।
पुरा मयायमिति यत्तदूनं चोत्तरं स्मृतम् ॥ १७८ ॥
गृहीतमिति वाच्ये तु कार्यं तेन कृतं मया।
पुरा गृहीतं यद्द्रव्यमिति यच्चातिभूरि तत् ॥ १७९ ॥
देयं मयेति वक्तव्ये मयादेयमितीदृशम्।
संदिग्धमुत्तरं ज्ञेयं व्यवहारे बुधैस्तदा ॥ १८० ॥
बलाबलेन चैतेन साहसं स्थापितं पुरा।
अनुक्तमेतन्मन्यन्ते तदन्यार्थमितीरितम् ॥१८१॥
अस्मै दत्तं मया सार्धं सहस्रमिति भाषिते।
प्रतिदत्तं तदर्धं यत्तदिहाव्यापकं स्मृतम् ॥ १८२ ॥
पूर्ववादी क्रियां यावत्सम्यङ्नैव निवेशयेत्।
मया गृहीतं पूर्वं नो तद्व्यस्तपदमुच्यते ॥ १८३ ॥
तत्किं तामरसं कश्चिदगृहीतं प्रदास्यति।
निगूढार्थं तु तत्प्रोक्तमुत्तरं व्यवहारतः ॥ १८४ ॥

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175 अपरार्क p. 614, परा. मा. III p. 73, व्य. मा. p. 303, वीर० p. 84. मिता० (on या. II. 7.) cites as स्मृत्यन्तर.
176-177 स्मृतिच० III p. 99, परा. मा. III p. 73, वीर० p. 84.
178 स्मृतिच० III p. 99, परा. मा. III p. 74, वीर० p. 84. परा. मा. reads भाषितं and वीर० reads विवक्षिते.
179 स्मृतिच० III p. 100, परा. मा. III p. 74, वीर० p. 84. परा. मा. reads इति चेद्वक्ति.
180 स्मृतिच० III p. 100, परा. मा. III p. 74, वीर० p. 84.
181 स्मृतिच० III p. 100, परा. मा. III p. 74, वीर० p. 85.
182 स्मृतिच० III p. 101, परा. मा. III p. 74.
183 स्मृतिच० III p. 101, परा. मा. p. 74.
184 स्मृतिच० III p. 101, परा. मा. p. 74 (which reads किञ्चिदगृहीतं), स. वि. p. 94 (which reads अगृहीतं न दास्यति).

किं तेनैव सदा देयं मया देयं भवेदिति ।
एतदाकुलमित्युक्तमुत्तरं तद्विदो विदुः ॥ १८५ ॥
काकस्य दन्ता नो सन्ति सन्तीत्यादि यदुत्तरम् ।
असारमिति तत्त्वेन सम्यङ्नोत्तरमिष्यते ॥ १८६ ॥
प्रस्तुतादल्पमव्यक्तं न्यूनाधिकमसङ्गतम् ।
अव्याप्यसारं संदिग्धं प्रतिपक्षं न लङ्घयेत् ॥ १८७ ॥
संदिग्धमन्यत्प्रकृतादत्यल्पमतिभूरि च ।
पक्षैकदेशव्याप्येव तत्तु नैवोत्तरं भवेत् ॥ १८८ ॥
पक्षैकदेशे यत्सत्यमेकदेशे च कारणम् ।
मिथ्या चैवैकदेशे च सङ्करात्तदनुत्तरम् ॥१८९॥
न चैकस्मिन्विवादे तु क्रिया स्याद्वादिनोर्द्वयोः ।
न चार्थसिद्धिरुभयोर्न चैकत्र क्रियाद्वयम् ॥ १९० ॥

(वादहानिकराणि)

प्रपद्य कारणं पूर्वमन्यद्गुरुतरं यदि ।
प्रतिवाक्यगतं ब्रूयात्साध्यते तद्धि नेतरत् ॥ १९१ ॥
यथार्थमुत्तरं दद्यादयच्छन्तं च दापयेत् ।
सामभेदादिभिर्मार्गैर्यावत्सोर्थः समुत्थितः ॥ १९२ ॥
मोहाद्वा यदि वा शाठ्याद्यन्नोक्तं पूर्ववादिना ।
उत्तरान्तर्गतं चापि तद्ग्राह्यमुभयोरपि ॥ १९३ ॥

185 स्मृतिच॰ III p. 101, परा. मा. III. p. 75.
186 स्मृतिच॰ III p. 101, परा. मा. III p. 75, वीर॰ p. 84 (which reads तत्तेन समं नोत्तरमिष्यते).
187 व्य. मा. p. 303.
188 अपरार्क p. 614, व्य. मा. p. 303. मिता॰ (on या. II. 7) cites as स्मृत्यन्तर.
189 मिता॰ (on या. II. 7), अपरार्क. 613, व्य. मा. p. 303, स्मृतिच॰ III p. 101, वीर॰ p. 85, परा. मा. III. p. 77.
190 व्य. मा. p. 297, मिता॰ (on या. II. 7), अपरार्क p. 613, वीर॰ p. 85, परा. मा. III p. 77, स्मृतिच॰ III·p. 102.
191 अपरार्क p. 614, व्य. मा. p. 307, स्मृतिच॰ III. p. 119. व्य. मा. reads प्रतिवाक्ये गतिं.
192 अपरार्क p. 615, वीर॰ p. 74 (has only first half).
193 अपरार्क p. 615, स्मृतिच॰ III p. 91, वीर॰ p. 74.

उपायैश्चोद्यमानस्तु न दद्यादुत्तरं तु यः ।
अतिक्रान्ते सप्तरात्रे जितोसौ दातुमर्हति ॥ १९४ ॥
श्रावयित्वा यथाकार्यं त्यजेदन्यद्वदेदसौ ।
अन्यपक्षाश्रयस्तेन कृतो वादी स हीयते ॥ १९५ ॥
न मयाभिहितं कार्यमभियुज्य परं वदेत् ।
विब्रुवंश्च भवेदेवं हीनं तमपि निर्दिशेत् ॥ १९६ ॥
लेखयित्वा तु यो वाक्यं हीनं वाप्यधिकं पुनः ।
वदेद्वादी स हीयेत नाभियोगं तु सोर्हति ॥ १९७ ॥
सभ्याश्च साक्षिणश्चैव क्रिया ज्ञेया मनीषिभिः ।
तां क्रियां द्वेष्टि यो मोहात्क्रियाद्वेषी स उच्यते ॥१९८॥
आह्वानादनुपस्थानात्सद्य एव प्रहीयते ॥१९९॥
ब्रूहीत्युक्तोपि न ब्रूयात्सद्यो बन्धनमर्हति ।
द्वितीयेहनि दुर्बुद्धेर्विद्यात्तस्य पराजयम् ॥ २०० ॥
व्याजेनैव तु यत्रासौ दीर्घकालमभीप्सति ।
सापदेशं तु तद् विद्याद्वादहानिकरं स्मृतम् ॥ २०१ ॥
अन्यवादी पणान्पञ्च क्रियाद्वेषी पणान्दश ।
नोपस्थाता दश द्वौ च षोडशैव निरुत्तरः ।
आहूतप्रपलायी च पणान्ग्राह्यस्तु विंशतिम् ॥२०२॥

194 परा. मा. III p. 81, स्मृतिच० III p. 105.

195 अपरार्क p. 622, स्मृतिच० III p. 106, वीर० p. 98, स. वि. p. 102.

196 अपरार्क p. 622, स्मृतिच III. p. 106, वीर० p. 98, स. वि. p. 102.

197 अपरार्क p. 622, स्मृतिच० III. p. 106, परा. मा. III. p. 81, वीर० p. 98, स. वि. p. 102.

198 स्मृतिच० III. p. 106, परा. मा. III p. 82, वीर० p. 98, स. वि. p. 102.

199 परा. मा. III p. 82, वीर० p. 98, स्मृतिच० III p. 107, स. वि. p. 102.

200 स्मृतिच० III p. 107, परा. मा. III 82, वीर p. 98 (reads सद्यस्त-द्धनमर्हति), स. वि. p. 102.

201 अपरार्क p. 622, स्मृतिच० III p. 107, वीर० p. 98 (reads--कालमति-क्रमेत्).

202 स्मृतिच० III p. 107, परा. मा. III p. 83, वीर० p. 99, स. वि. 103. स्मृतिच० reads आहूतविपलायी and स. वि. reads आहूतव्यपवायी (?).

त्रिराहूतमनायान्तमाहूतप्रपलायिनम् ।
पञ्चरात्रमतिक्रान्तं विनयेत्तं महीपतिः ॥ २०३ ॥
आवितव्यवहाराणामेकं यत्र प्रभेदयेत् ।
वादिनं लोभयेच्चैव हीनं तमिति निर्दिशेत् ॥ २०४ ॥
भयं करोति भेदं वा भीषणं वा निरोधनम् ।
एतानि वादिनोर्थस्य व्यवहारे स हीयते ॥ २०५ ॥
दोषानुरूपं संग्राह्यः पुनर्वादो न विद्यते ।
उभयोर्लिखिते वाच्ये प्रारब्धे कार्यनिश्चये ।
अयुक्तं तत्र यो ब्रूयात्तस्मादर्थात्स हीयते ॥ २०६ ॥
साक्षिणो यस्तु निर्दिश्य कामतो न विवादयेत् ।
स वादी हीयते तस्मात् त्रिंशद्रात्रात्परेण तु ॥ २०७ ॥
पलायनानुत्तरत्वादन्यपक्षाश्रयेण च ।
हीनस्य गृह्यते वादो न स्ववाक्यजितस्य तु ॥ २०८॥
यो हीनवाक्येन जितस्तस्योद्धारं विदुर्बुधाः ।
स्ववाक्यहीनो यस्तु स्यात्तस्योद्धारो न विद्यते ॥२०९॥
आवेद्य प्रगृहीतार्थाः प्रशमं यान्ति ये मिथः ।
सर्वे द्विगुणदण्ड्याः स्युः विप्रलम्भान्नृपस्य ते ॥२१०॥

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203 स्मृतिच॰ III p. 108, परा. मा. p. 83, वीर॰ p. 99.

204 स्मृतिच॰ III p. 108, वीर॰ p. 99 (reads तमपि for तमिति), स. वि. p. 103 (reads तमपि).

205 स. वि. p. 103.

206 अपरार्क p. 615 (reads अनुक्तं for अयुक्तं), परा. मा. III pp. 83-84, वीर॰ p. 74, स्मृतिच॰ III p. 109. परा. मा. and स्मृतिच॰ read वाक्ये for वाच्ये.

207 अपरार्क p. 622, स्मृतिच॰ III p. 110.

208 व्य. मा. p. 310, वीर॰ p. 103, स्मृतिच॰ III p. 111: व्य. मा. ascribes it to बृहस्पति.

209 स्मृतिच॰ III p. 111, वीर॰ p. 103 (reads हीनचिह्नेन).

210 स्मृतिच॰ III p. 112, परा. मा. III. p. 84, वीर॰ p. 104. परा. मा and वीर॰ read प्रगृहीतार्थं.

(क्रियापादः)

कारणात्पूर्वपक्षोपि ह्युत्तरत्वं प्रपद्यते ।
अतः क्रिया तदा प्रोक्ता पूर्वपक्षप्रसाधिनी ॥ २११ ॥
शोधिते लिखिते सम्यागिति निर्दोष उत्तरे ।
प्रत्यर्थिनोर्थिनो वापि क्रियाकरणमिष्यते ॥ २१२ ॥
वादिना यदभिप्रेतं स्वयं साधयितुं स्फुटम् ।
तत्साध्यं साधनं येन तत्साध्यं साध्यतेखिलम् ॥२१३॥

(प्रमाणानि, तेषां च बलाबलादिविचारः)

लिखितं साक्षिणो भुक्तिः प्रमाणं त्रिविधं विदुः ।
लेशोद्देशस्तु युक्तिः स्याद्दिव्यानीह विषादयः ॥ २१४ ॥
पूर्ववादेपि लिखिते यथाक्षरमशेषतः ।
अर्थी तृतीयपादे तु क्रियया प्रतिपादयेत् ॥ २१५ ॥
कार्यं हि साध्यमित्युक्तं साधनं तु क्रियोच्यते ।
द्विभेदा सा पुनर्ज्ञेया दैविकी मानुषी तथा ।
मानुषी लेख्यसाक्ष्यादिर्धधादिर्दैविकी मता ॥ २१६ ॥
संभवे साक्षिणां प्राज्ञो दैविकीं वर्जयेत्क्रियाम् ।
संभवे तु प्रयुञ्जानो दैविकीं हीयते ततः ॥ २१७ ॥
यद्येको मानुषीं ब्रूयादन्यो ब्रूयात्तु दैविकीम् ।
मानुषीं तत्र गृह्णीयान्न तु दैवीं क्रियां नृपः ॥२१८॥

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211 अपरार्क p. 624, परा. मा. III p. 87, वीर० p. 79.

212 स्मृतिच० III p. 113, वीर० p. 92, स. वि. p. 105 (reads क्रियाकारणमिष्यते)

213 व्य. मा. p. 334, वीर० p. 107.

214 वीर० p. 110, परा. मा. III. p. 91 (reads साक्षिणो लिखितं भुक्तिः and लिङ्गोद्देशस्तु युक्तिः).

215 वीर० p. 111.

216 अपरार्क p. 616.

217 स्मृतिच. III p. 116.

218 मिता. (on या. II 22), व्य. मा. p. 315, अपरार्क p. 628, स्मृतिच० III. p. 116, परा. मा. III 87, वीर० p. 111.

यद्येकदेशव्याप्तापि क्रिया विद्येत मानुषी ।
सा ग्राह्या न तु पूर्णापि दैविकी वदतां नृणाम् ॥२१९॥
पञ्चप्रकारं दैवं स्यान्मानुषं त्रिविधं स्मृतम् ॥ २२० ॥
क्रियां बलवतीं मुक्त्वा दुर्बलां योवलम्बते ।
स जयेवधृते सभ्यैः पुनस्तां नाप्नुयात् क्रियाम् ॥२२१॥
सारभूतं पदं मुक्त्वा असाराणि बहून्यपि ।
संसाधयेत्क्रिया या तु तां जह्यात्सारवर्जिताम् ॥
पक्षद्वयं साधयेद्या तां जह्याद्दूरतः क्रियाम् ॥ २२२ ॥
क्रिया न दैविकी प्रोक्ता विद्यमानेषु साक्षिषु ।
लेख्ये च सति वादेषु न दिव्यं न च साक्षिणः ॥२२३॥
कालेन हीयते लेख्यं दूषितं न्यायतस्तथा ।
अलेख्यसाक्षिके दैवीं व्यवहारे विनिर्दिशेत् ।
दैवसाध्ये पौरुषेयीं न लेख्यं वा प्रयोजयेत् ॥ २२४ ॥
पूगश्रेणिगणादीनां या स्थितिः परिकीर्तिता ।
तस्यास्तु साधनं लेख्यं न दिव्यं न च साक्षिणः ॥२२५॥
द्वारमार्गक्रियाभोगजलवाहादिके तथा ।
भुक्तिरेव हि गुर्वी स्यान्न लेख्यं न च साक्षिणः ॥२२६॥
दत्तादत्तेथभृत्यानां स्वामिना निर्णये सति ।
विक्रयादानसंबन्धे क्रीत्वा धनमयच्छति ॥ २२७ ॥

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219 मिता. (on या. II. 22), व्य. मा. p. 311, स्मृतिच. III p. 116, परा. मा. III p. 88, वीर० p. 111; अपरार्क reads प्राप्तापि for व्याप्तापि and न्याय्या for ग्राह्या. व्य. मा. and वीर० also read प्राप्तापि.

220 स्मृतिच० III p. 124.

221 मिता० (on या. II. 80), व्य. मा. pp. 281, 309, 336, वीर० p. 108.

222 स्मृतिच० III. p. 116 (has first two lines), वीर० p. 108.

223 व्य. मा. pp. 306, 308, 315, अपरार्क p. 690 (which reads देया for प्रोक्ता), परा. मा. III p. 88 (which reads क्रिया तु...प्राप्ता),

224 व्य. मा. p. 340 (first line), स्मृतिच० III. p. 149 (has only the half अलेख्य०), वीर० p. 113-114 (has last two lines).

225-228 स्मृतिच० III p. 122, मिता० (on या. II. 22 without name), परा. मा. III. pp. 88-89, अपरार्क p. 629, वीर० p. 112.

द्यूते समाह्वये चैव विवादे समुपस्थिते ।
साक्षिणः साधनं प्रोक्तं न दिव्यं न च लेख्यकम् ॥२२८॥
प्रक्रान्ते साहसे वादे पारुष्ये दण्डवाचिके ।
बलोद्भूतेषु कार्येषु साक्षिणो दिव्यमेव वा ॥ २२९ ॥
गूढसाहसिकानां तु प्राप्तं दिव्यैः परीक्षणम् ।
युक्तिचिह्नेङ्गिताकारवाक्चक्षुश्चेष्टितैर्नृणाम् ॥ २३० ॥
उत्तमेषु च सर्वेषु साहसेषु विचारयेत् ।
सद्भावं दिव्यदृष्टेन सत्सु साक्षिषु वै भृगुः ॥ २३१ ॥
समत्वं साक्षिणां यत्र दिव्यैस्तत्रापि शोधयेत् ।
प्राणान्तिकविवादेषु विद्यमानेषु साक्षिषु ।
दिव्यमालम्बते वादी न पृच्छेत्तत्र साक्षिणः ॥ २३२ ॥
ऋणे लेख्यं साक्षिणो वा युक्तिलेशादयोपि वा ।
दैविकी वा क्रिया प्रोक्ता प्रजानां हितकाम्यया ॥२३३॥
चोदना प्रतिकालं च युक्तिलेशस्तथैव च ।
तृतीयः शपथः प्रोक्तः तैर्ऋणं साधयेत्क्रमात् ॥ २३४ ॥
अभीक्ष्णं चोद्यमानोपि प्रतिहन्यान्न तद्वचः ॥
त्रिः चतुः पञ्चकृत्वो वा परतोर्थं समाचरेत् ॥ २३५ ॥
चोदनाप्रतिघाते तु युक्तिलेशैः समान्वियात् ।
देशकालार्थ-संबन्ध-परिमाण-क्रियादिभिः ॥ २३६ ॥

मिता० reads न दिव्यं for न लेख्यं and जलवाहादिषुक्रिया; परा. मा. reads स्वामिनां for स्वामिना; अपरार्क reads दत्तादत्ते तथादत्ते. वीर० reads दत्तादत्तेषु and स्वामिनां and वाहादिषु क्रिया.

229 अपरार्क p. 629, स्मृतिच०. III p. 117 (which reads बलोद्भवेषु), मिता० on या II 22 (दिव्यमेव च), परा. मा. III p. 91, स. वि. p. 107 (reads बलोद्भवेषु)

230 स्मृतिच० III p. 117, वीर० p. 113 (युक्तिलेशेङ्गिता०)

231 स्मृतिच० III p. 117, परा. मा. III p. 90 (reads सर्वं तु दिव्य०).

232 व्य. मा. p. 316, अपरार्क p. 630, स्मृतिच० III p. 121, परा. मा. III p. 90, वीर० p. 114. व्य. मा. reads तत्र विशोधयेत् and दिव्यमापद्यते; स्मृतिच० reads प्राणान्तिकविवादे वा.

233 स्मृतिच० III p. 118, परा. मा. III p. 91 (reads भुक्तिलेख्यादयोपि वा), स. वि. p. 107.

234-237 परा. मा. III p. 91 (reads युक्तिर्लेखस्तथैव and युक्तिलेखैः, शपथैर-

युक्तिष्वप्यसमर्थासु शपथैरेव निर्णयेत् ।
अर्थकालबलापेक्षैरग्न्यम्बुसुकृतादिभिः ॥ २३७ ॥
यत्र स्यात्सोपधं लेख्यं तद्राज्ञः श्रावितं यदि ।
दिव्येन शोधयेत्तत्र राजा धर्मासनस्थितः ॥ २३८ ॥
वाक्पारुष्ये च भूमौ च दिव्यं न परिकल्पयेत् ॥ २३९॥
स्थावरेषु विवादेषु दिव्यानि परिधारयेत् ।
साक्षिभिर्लिखितेनार्थे(र्थं) भुक्त्या चैव प्रसाधयेत् ॥ २४० ॥
प्रमाणैर्हेतुना वापि दिव्येनैव तु निश्चयम् ।
सर्वेष्वेव विवादेषु सदा कुर्यान्नराधिपः ॥ २४१ ॥
लिखितं साक्षिणो भुक्तिः प्रमाणं त्रिविधं स्मृतम् ।
अनुमानं विदुर्हेतुं तर्कं चैव मनीषिणः ॥ २४२ ॥
पूर्वाभावे परेणैव नान्यथैव कदाचन ।
प्रमाणैर्वादिनिर्दिष्टैर्भुक्त्या लिखितसाक्षिभिः ॥ २४३ ॥
न कश्चिदभियोक्तारं दिव्येषु विनियोजयेत् ।
अभियुक्ताय दातव्यं दिव्यं दिव्यविशारदैः ॥ २४४ ॥
मिथ्योक्तौ स चतुष्पात्स्यात्प्रत्यवस्कन्दने तथा ।
प्राङ्न्याये स च विज्ञेयो द्विपात्संप्रतिपत्तिषु ॥२४५॥

न मर्दयेत्, बलापेक्षं). स्मृतिच॰ (III pp. 117-118) appears to attribute these four to नारद.

238 अपरार्क p. 630, स्मृतिच॰ III p. 122, वीर॰ p. 115 (reads राज्ञे) परा. मा. III p. 90 (यद्राजश्रावितं).

239 अपरार्क p. 629, स्मृतिच॰ III p. 121.

240 व्य. मा. p. 308.

241 अपरार्क p. 628, स्मृतिच॰ III p. 118, व्य. मा. p. 314, स. वि. p. 107 (reads सर्वेष्वर्थविवादेषु).

242 स. वि. p. 107, वीर॰ p. 115 (ascribes it to व्यास).

243 व्य. मा. p. 314, स्मृतिच॰ III p. 118 (first half), अपरार्क p. 628 (first half). स्मृतिच॰ reads सर्वाभावे तु यत्नेन and अपरार्क reads तु यत्नेन for परेणैव.

244 परा. मा. III p. 152, वीर॰ p. 115.

245 स्मृतिच॰ III p. 120, स. वि. p. 108.

पराजयश्च द्विविधः परोक्तः स्वोक्त एव च।
परोक्तः स्याद्दशविधः स्वोक्त एकविधः स्मृतः ॥२४६॥
विवादान्तरसंक्रान्तिः पूर्वोत्तरविरुद्धता।
दूषणं स्वक्रियोत्पत्तेः परवाक्योपपादनम् ॥ २४७॥
अनिर्देशश्च देशस्य निर्देशोदेशकालयोः।
साक्षिणामुपजापश्च विद्वेषे वचनस्य च॥
अयुक्तदेशोपनयः साक्षिप्रश्ननिराक्रिया॥ २४८॥

(लेख्यम्)

लेख्यं तु द्विविधं प्रोक्तं स्वहस्तान्यकृतं तथा।
असाक्षिमत्साक्षिमच्च सिद्धिर्देशस्थितेस्तयोः॥ २४९॥
ग्राहकेण स्वहस्तेन लिखितं साक्षिवर्जितम्।
स्वहस्तलेख्यं विज्ञेयं प्रमाणं तत्स्मृतं बुधैः॥ २५०॥
उत्पत्तिजातिसंज्ञां च धनसंख्यां च लेखयेत्।
स्मरत्येवं प्रयुक्तस्य नश्येदर्थस्त्वलेखितः॥ २५१॥
लेख्यं तु साक्षिमत्कार्यमविलुप्ताक्षरक्रमम्।
देशाचारस्थितियुतं समग्रं सर्ववस्तुषु॥ २५२॥
वर्णवाक्यक्रियायुक्तमसंदिग्धं स्फुटाक्षरम्।
अहीनक्रमचिह्नं च लेख्यं तत्सिद्धिमाप्नुयात्॥२५३॥
चातुर्विद्यपुरश्रेणीगणपौरादिकस्थितिः।
तत्सिध्यर्थं तु यल्लेख्यं तद्भवेत्स्थितिपत्रकम्॥ २५४॥
अभिशापे समुत्तीर्णे प्रायश्चित्ते कृते जनैः।
विशुद्धिपत्रकं ज्ञेयं तेभ्यः साक्षिसमन्वितम्॥ २५५॥

246-248 व्य. मा. pp. 284-285.

249 परा. मा. III p. 130. This is नारद (ऋणादान verse 135). वीर० p. 190 and मिता० on या. II. 84 ascribe it to नारद. अपरार्क p. 686 cites the verse without naming the author.

250 स्मृतिच० III p. 136, परा. मा. III p. 127.

251-53 टोडरानन्द.

254 स्मृतिच० III p. 136. This is ascribed to पितामह by परा. मा. III p. 128.

255 व्य. म. p. 25, वीर० p. 189. This is ascribed to पितामह by परा. मा. p. 128 and to हारीत by स. वि. p. 116.

उत्तमेषु समस्तेषु अभिशापे समागते ।
वृत्तानुवादलेख्यं यत्तज्ज्ञेयं सन्धिपत्रकम् ॥ २५६ ॥
सीमाविवादे निर्णीते सीमापत्रं विधीयते ॥ २५७ ॥
राज्ञः स्वहस्तसंयुक्तं समुद्राचिह्नितं तथा ।
राजकीयं स्मृतं लेख्यं सर्वेष्वर्थेषु साक्षिमत् ॥ २५८ ॥
अर्थिप्रत्यर्थिवाक्यानि प्रतिज्ञा साक्षिवाक्तथा ।
निर्णयश्च यथा तस्य यथा चावधृतं स्वयम् ॥२५९॥
एतद्यथाक्षरं लेख्ये यथापूर्वं निवेशयेत् ।
अभियोक्त्रभियुक्तानां वचनं प्राङ्निवेशयेत् ॥ २६० ॥
सभ्यानां प्राड्विवाकस्य कुलानां वा ततः परम् ।
निश्चयं स्मृतिशास्त्रस्य मतं तत्रैव लेखयेत् ॥ २६१ ॥
सिद्धेनार्थेन संयोज्यो वादी सत्कारपूर्वकम् ।
लेख्यं स्वहस्तसंयुक्तं तस्मै दद्यात्तु पार्थिवः ॥ २६२ ॥
सभासदश्च ये तत्र स्मृतिशास्त्रविदः स्थिताः ।
यथालेख्यविधौ तद्वत् स्वहस्तं तत्र दापयेत् ॥२६३ ॥
अनेन विधिना लेख्यं पश्चात्कारं विदुर्बुधाः ।
निरस्ता तु क्रिया यत्र प्रमाणेनैव वादिना ।
पश्चात्कारो भवेत्तत्र न सर्वासु विधीयते ॥ २६४ ॥

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256 व्य. म. p. 25, वीर० p. 189.

257 स्मृतिच० III p. 137, परा. III p. 128, व्य. म. 25, वीर p. 190.

258 टोडरानन्द.

259 स्मृतिच० III p. 130, व्यवहारतत्त्व p. 230, व्य. मा. p. 309 (which reads यथाचारधृतं) while व्य. मा. p. 353 has the same verse and reads प्रतिज्ञावचनं तथा and तथा चावधृतं.

260 स्मृतिच० III p. 130, व्य. मा. p. 309 (first half) reads लेख्यं for लेख्ये; व्य. मा. p. 353 has first half and reads तत्त्वयथाक्षरं.

261 स्मृतिच० III p. 130.

262 अपरार्क p. 684 (reads सिद्धे चार्थेन), स्मृतिच० III 130, p. वीर० p. 195.

263 स्मृतिच० III. 130, व्य. मा. p. 309 and p. 353, वीर० p. 195 (which reads स्वहस्तं दद्युरेव ते).

264 स्मृतिच० III p. 131, परा. मा. pp. 124-125, वीर० p. 195.

अन्यवाद्यादिहीनेभ्य इतरेषां प्रदीयते ।
वृत्तानुवादसंसिद्धं तच्च स्याज्जयपत्रकम् ॥ २६५ ॥

(लेख्यपरीक्षा)

राजाज्ञया समाहूय यथान्यायं विचारयेत् ।
लेख्याचारेण लिखितं साक्ष्याचारेण साक्षिणः ॥२६६॥
वर्णवाक्यक्रियायुक्तमसंदिग्धं स्फुटाक्षरम् ।
अहीनक्रमचिह्नं च लेख्यं तत्सिद्धिमाप्नुयात् ॥ २६७ ॥
देशाचारयुतं वर्षमासपक्षादिवृद्धिमत् ।
ऋणिसाक्षिलेखकानां हस्ताङ्कं लेख्यमुच्यते ॥ २६८ ॥
स्थानभ्रष्टास्त्वपङ्क्तिस्थाः संदिग्धा लक्षणच्युताः ।
यदा तु संस्थिता वर्णाः कूटलेख्यं तदा भवेत् ॥ २६९ ॥
देशाचारविरुद्धं यत्संदिग्धं क्रमवर्जितम् ।
कृतमस्वामिना यच्च साध्यहीनं च दुष्यति ॥ २७० ॥
मत्तेनोपाधिभीतेन तथोन्मत्तेन पीडितैः ।
स्त्रीभिर्बालास्वतन्त्रैश्च कृतं लेख्यं न सिध्यति ॥ २७१ ॥
ख्यापितं चेद् द्वितीयेहि न कश्चिद्विनिवर्तयेत् ।
तथा तत्स्यात्प्रमाणं तु मत्तोन्मत्तकृताद्दते ॥ २७२ ॥

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265 स्मृतिच॰ III p. 131, परा. मा. III. 125, वीर॰ p. 195, टोडरानन्द. परा. मा. reads विधीयते for प्रदीयते and वृद्धानुवादसंसिद्धिः.

266 स्मृतिच॰ III p. 139 (reads क्रियां समाहूय) and also p. 195, परा. मा. III p. 129, वीर॰ p. 197 (reads राजा क्रियाः), स. वि. p. 119 (also reads क्रियां समाहूय and suggests that समादाय would be good a reading).

267 स्मृतिच॰ III p. 139, परा. मा. III p. 129, स. वि. p. 119.

268 स्मृतिच॰ III p. 140.

269 स्मृतिच॰ III p. 141, परा. मा. III. 130 (which reads अकान्तिस्थाः).

270 अपरार्क p. 686, स्मृतिच॰ III p. 141 (reads कृतं च स्वामिना), परा. मा. III p. 131, वीर॰ p. 197.

271 स्मृतिच॰ p. 141 (मत्तेनोपाधि॰), स. वि p. 119.

272 टोडरानन्द.

साक्षिदोषाद्भवेद्दुष्टं पत्रं वै लेखकस्य वा ।
धनिकस्योपधादोषात्तथा धारणिकस्य वा ॥ २७३ ॥
दुष्टैर्दुष्टं भवेल्लेख्यं शुद्धं शुद्धैर्विनिर्दिशेत् ।
तत्पत्रमुपधादुष्टैः साक्षिलेखककारकैः ॥ २७४ ॥
प्रमाणस्य हि ये दोषा वक्तव्यास्ते विवादिना ।
गूढास्तु प्रकटाः सभ्यैः काले शास्त्रप्रदर्शनात् ॥ २७५॥
साक्षिलेखककर्तारः कूटतां यान्ति ते यथा ।
तथा दोषाः प्रयोक्तव्या दुष्टैर्लेख्यं प्रदुष्यति ॥ २७६ ॥
न लेखकेन लिखितं न दृष्टं साक्षिभिस्तथा ।
एवं प्रत्यर्थिनोक्ते तु कूटलेख्यं प्रकीर्तितम् ॥ २७७ ॥
नातथ्येन प्रमाणं तु दोषेणैव तु दूषयेत् ।
मिथ्याभियोगे दण्ड्यः स्यात्साध्यार्थाच्चापि हीयते ॥२७८॥
एवं दुष्टं नृपस्थाने यस्मिंस्तद्धि विचार्यते ।
विमृश्य ब्राह्मणैः सार्धं पत्रदोषान्निरूपयेत् ॥ २७९ ॥
येन ते कूटतां यान्ति साक्षिलेखककारकाः ।
तेन दुष्टं भवेल्लेख्यं शुद्धैः शुद्धिं विनिर्दिशेत् ॥ २८० ॥

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273 व्य. मा. p. 338, अपरार्क p. 686, परा. मा. III p. 131, स्मृतिच॰ III p. 142 (धनिकस्यापि वा), टोडरानन्द (reads धनिकस्योपधालेख्यं), वीर॰ p. 197,

274 व्य. मा. p. 338, वीर॰ p. 197.

275 स्मृतिच॰ III p. 142 and p. 192, परा. मा. III p. 132, अपरार्क 671, व्य. म. p. 39, वीर॰ p. 164.

276 स्मृतिच॰ III p. 142, परा. मा. III p. 132, वीर॰ p. 199.

277 अपरार्क p. 689, स्मृतिच॰ III p. 143, परा. मा. III p. 132, वीर॰ p. 198.

278 स्मृतिच॰ III p. 143, परा. मा. III p. 132 (reads तथ्येन हि प्रमाणं तु).

279 स्मृतिच॰ III p. 143, अपरार्क p. 689, परा. मा. III p. 132-133 (attributes to बृहस्पति).

280 स्मृतिच॰ III p. 143, परा. मा. III p. 133.

धनिकेन स्वहस्तेन लिखितं साक्षिवर्जितम् ।
भवेत्कूटं न चेत्कर्ता कृतं हीति विभावयेत् ॥ २८१ ॥
दत्तं लेख्ये स्वहस्तं तु ऋणिको यदि निह्नुते ।
पत्रस्थैः साक्षिभिर्वाच्यो लेखकस्य मतेन वा ॥ २८२ ॥
कृताकृतविवादेषु साक्षिभिः पत्रनिर्णयः ।
दूषिते पत्रके वादी तदारूढांस्तु निर्दिशेत् ॥ २८३ ॥
त्रिविधस्यापि लेख्यस्य भ्रान्तिः सञ्जायते नृणाम् ।
ऋणिसाक्षिलेखकानां हस्तोक्त्या साधयेत्ततः ॥ २८४ ॥
अथ पञ्चत्वमापन्नो लेखकः सह साक्षिभिः ।
तत्स्वहस्तादिभिस्तेषां विशुध्येत्तु न संशयः ॥ २८५ ॥
ऋणिस्वहस्तसंदेहे जीवतो वा मृतस्य वा ।
तत्स्वहस्तकृतैरन्यैः पत्रैस्तल्लेख्यनिर्णयः ॥ २८६ ॥
समुद्रेपि यदा लेख्ये मृताः सर्वेपि ते स्थिताः ।
लिखितं तत्प्रमाणं तु मृतेष्वपि हि तेषु च ॥ २८७ ॥
प्रत्यक्षमनुमानेन न कदाचित्प्रबाध्यते ।
तस्माल्लेख्यस्य दुष्टस्य वचोभिः साक्षिणां भवेत् ॥ २८८

281 अपरार्क p. 686, स्मृतिच० III p. 143, वीर० p. 197.

282 स्मृतिच० III p. 144, परा. मा. III p. 133 (ascribes to बृहस्पति and reads साक्षिभिर्वाचा).

283 मिता० on या० II. 92 (latter half), अपरार्क p. 689 (first half), स्मृतिच० III p. 144, स. वि. p. 120 (latter half only).

284 वीर० p. 198, व्य. मा. p. 339 (ascribes to नारद and reads हस्तोत्थे), परा. मा. p. 134 (ascribes to बृहस्पति).

285 व्य. मा. p. 339, अपरार्क p. 689, स्मृतिच० III. p. 145, परा. मा. III. p. 134, वीर० p. 198.

286 व्य. मा. p. 399, अपरार्क p. 690, परा. मा. III p. 134, वीर० p. 198.

287 अपरार्क p. 689, स्मृतिच० III p. 146 (which reads यथा for यदा and तात्स्थिताः), परा. मा. III. p. 134.

288 अपरार्क p. 689, स्मृतिच० III. p. 145.

निर्णयः स्वधनार्थे हि पत्रं दूषयति स्वयम् ।
लिखितं लिखितेनैव साक्षिमत्साक्षिभिर्हरेत् ॥ २८९ ॥
कूटोक्तौ साक्षिणां वाक्याल्लेखकस्य च पत्रकम् ।
नयेच्छुद्धिं न यः कूटं स दाप्यो दममुत्तमम् ॥ २९० ॥
आढ्यस्य निकटस्थस्य यच्छक्तेन न याचितम् ।
शुद्धर्णशङ्कया तत्तु लेख्यं दुर्बलतामियात् ॥ २९१ ॥
लेख्यं त्रिंशत्समातीतमदृष्टाश्रावितं च यत् ।
न तत्सिद्धिमवाप्नोति तिष्ठत्स्वपि हि साक्षिषु ॥२९२॥
प्रयुक्ते शान्तलाभे तु लिखितं यो न दर्शयेत् ।
नैव याचेत ऋणिकं न तत्सिद्धिमवाप्नुयात् ॥ २९३ ॥
पश्चात्कारनिबद्धं यत्तद्यत्नेन विचारयेत् ।
यदि स्याद्युक्तियुक्तं तु प्रमाणं लिखितं तदा ॥ २९४ ॥
अन्यथा दूरतः कार्यं पुनरेव विनिर्णयेत् ।
अतथ्यं तथ्यभावेन स्थापितं ज्ञानविभ्रमात् ॥
निवर्त्यं तत्प्रमाणं स्याद्यत्नेनापि कृतं नृपैः ॥ २९५ ॥
मुद्राशुद्धं क्रियाशुद्धं भुक्तिशुद्धं सचिह्नकम् ।
राज्ञः स्वहस्तसंशुद्धं शुद्धिमायाति शासनम् ॥ २९६ ॥
निर्दोषं प्रथितं यत्तु लेख्यं तत्सिद्धिमाप्नुयात् ॥ २९७ ॥
दृष्टे पत्रे स्फुटान् दोषान्नोक्तवानृणिको यदि ।

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289 अपरार्क p. 689, स्मृतिच० III 145, परा. मा. III p. 134 (only latter half). अपरार्क has on p. 690 the latter half joined to साक्षिभ्यो लिखितं श्रेयो लिखितान्न तु साक्षिणः (but no author is named), while स्मृतिच० ascribes latter half to नारद.

290 अपरार्क p. 689, वीर० p. 199, परा. मा. III p. 134 (only first half) and p. 138 (where we have whole verse and वाक्यं for वाक्यात्).

291–93 परा. मा. III pp. 134-135, अपरार्क 692 (attributes to बृहस्पति), व्य. मा. p. 340 (has 291-292 and ascribes to बृहस्पति) and p. 294 (has 291), स्मृतिच० III p. 152 (ascribes 291 to बृहस्पति and 292--293 to कात्यायन) reads तत्संदिग्धत्वमाप्नुयात्.

294–95 स्मृतिच० III p. 145–6.

296 अपरार्क p. 684, स्मृतिच० III p. 146, स. वि. p. 121.

297 परा. मा. III p. 136.

ततो विंशतिवर्षाणि स्थितं पत्रं स्थिरं भवेत् ॥ २९८ ॥
शक्तस्य संनिधावर्थो येन लेख्येन भुज्यते ।
वर्षाणि विंशतिं यावत्तत्पत्रं दोषवर्जितम् ॥ २९९ ॥
अथ विंशतिवर्षाणि आधिर्भुक्तः सुनिश्चितम् ।
तेन लेख्येन तत्सिध्दिर्लेख्यदोषविवर्जिता ॥ ३०० ॥
सीमाविवादे निर्णीते सीमापत्रं विधीयते ।
तस्य दोषाः प्रवक्तव्या यावद्वर्षाणि विंशतिः ॥ ३०१ ॥
आधानसहितं यत्र ऋणं लेख्ये निवेशितम् ।
मृतसाक्षि प्रमाणं तु स्वल्पभोगेषु तद्विदुः ॥३०२ ॥
प्राप्तं वानेन चेत्किञ्चिद्दानं चाप्यनिरूपितम् ।
विनापि मुद्रया लेख्यं प्रमाणं मृतसाक्षिकम् ॥ ३०३ ॥
यदि लब्धं भवेत्किञ्चित् प्रज्ञप्तिर्वा कृता भवेत् ।
प्रमाणमेव लिखितं मृता यद्यपि साक्षिणः ॥ ३०४ ॥

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298. व्य. मा. p. 340 (reads क्रान्तपत्रं), परा. मा. III. p. 136 (reads तथा दृष्टं स्फुटं दोषं and क्रीतपत्रं स्थितं) वीर० p. 200.,

299 मिता० on या. II. 24 (reads विंशतिवर्षाण्यतिक्रान्तं), अपरार्क p. 690, व्य. मा. p. 340 (reads बन्धो for अर्थो), स्मृतिच० III p. 146 (reads येन लेख्येन) and 154 (reads दश वर्षाण्यतिक्रान्तं), परा. मा. III p. 136, वीर० p. 200 and स. वि. 127 (read विशद्वर्षाण्यतिक्रान्तं.)

300 मिता० on या. II. 24, स्मृतिच० III p. 146 (ascribes to स्मृत्यन्तर immedately after citing कात्यायन), अपरार्क p. 691 (reads तत्सिद्धं लेख्यं दोषविवर्जितम्), परा. मा. III p. 136 (reads as अपरार्क does), स. वि. p. 121 (ascribes to स्मृत्यन्तर after citing कात्यायन and reads like अपरार्क), वीर० p. 200, स. वि. p. 128.

301 मिता० on या. II. 24, अपरार्क p. 691, परा. मा. III p. 136. वीर० p. 200. स्मृतिच० III p. 146 and स. वि. p. 121 attribute to स्मृत्यन्तर, while स. वि. p. 128 attributes this and the preceding to कात्यायन.

302 अपरार्क p. 691, परा. मा. III p. 136 (reads मृतं साक्षिप्रमाणं).

303 परा. मा. III p. 137, वीर० p. 200 (reads देयं वाथ निरूपितम्).

304 अपरार्क p. 691, परा. मा. III p. 137, स. वि. p. 122. अपरार्क attributes to नारद.

दर्शितं प्रतिकालं यद् ग्राहितं स्मारितं तथा ।
लेख्यं सिध्यति सर्वत्र मृतेष्वपि च साक्षिषु ॥ ३०५ ॥
न दिव्यैः साक्षिभिर्वापि हीयते लिखितं क्वचित् ।
लेख्यधर्मः सदा श्रेष्ठो ह्यतो नान्येन हीयते ॥ ३०६ ॥
तद्युक्तप्रतिलेख्येन तद्विशिष्टेन वा सदा ।
लेख्यक्रिया निरस्येत निरस्यान्येन न क्वचित् ॥३०७॥
दर्पणस्थं यथा बिम्बमसत्सदिव दृश्यते ।
तथा लेख्यस्य बिम्बानि कुर्वन्ति कुशला जनाः ॥३०८॥
द्रव्यं गृहीत्वा यल्लेख्यं परस्मै संप्रदीयते ।
छन्नमन्येन चारूढं संयतं चान्यवेश्मनि ॥ ३०९ ॥
दत्ते वृत्तेथवा द्रव्ये क्वचिल्लिखितपूर्वके ।
एष एव विधिर्ज्ञेयो लेख्यशुद्धिविनिर्णये ॥ ३१० ॥
स्थावरे विक्रयाधाने लेख्यं कूटं करोति यः ।
स सम्यग्भावितः कार्यो जिह्वापाण्यङ्घ्रिवर्जितः॥३११॥
मलैर्यद्भेदितं दग्धं छिद्रितं वीतमेव वा ।
तदन्यत्कारयेल्लेख्यं स्वेदेनोल्लिखितं तथा ॥ ३१२ ॥

(भुक्तिः)

लिखितं साक्षिणो भुक्तिः प्रमाणत्रयमिष्यते ।
प्रमाणेषु स्मृता भुक्तेः सल्लेख्यसमता नृणाम् ॥ ३१३ ॥

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305 स. वि. p. 122.

306 अपरार्क p. 692, स्मृतिच० III. p. 151, व्य. मा. p. 314 (reads तद्दिव्यैः and लेख्ये धर्मः), स. वि. p. 123.

307 अपरार्क p. 692 (reads तद्युक्ति० and न साक्षिशपथैः क्वचित्), स्मृतिच० III. p. 151, स. वि. p. 123 (तद्युक्तः प्रति०), टोडरानन्द (reads like अपरार्क).

308 स्मृतिच० III. p. 148, व्य. मा. p. 339, वीर० p. 197.

309–310 स्मृतिच० III. p. 152.

311 परा. मा. III p. 138 (reads असम्यग्भावितः), स्मृतिच० III. p. 150.

312 अपरार्क p. 687, स्मृतिच० III p. 138.

313 स्मृतिच० III. p. 153, स. वि. p. 124 (reads स्थिरा भुक्तिः सल्लेख्या संमता).

रथ्यानिर्गमनद्वारजलवाहादिसंश्रये।
भुक्तिरेव तु गुर्वी स्यात्प्रमाणेष्विति निश्चयः ॥ ३१४ ॥
अनुमानाद् गुरुः साक्षी साक्षिभ्यो लिखितं गुरु।
अव्याहता त्रिपुरुषी भुक्तिरेभ्यो गरीयसी ॥ ३१५ ॥
नोपभोगे बलं कार्यमाहर्त्रा तत्सुतेन वा।
पशुस्त्रीपुरुषादीनामिति धर्मो व्यवस्थितः ॥ ३१६ ॥
भुक्तिस्तु द्विविधा प्रोक्ता सागमानागमा तथा।
त्रिपूरुषी या स्वतन्त्रा सा चेदल्पा तु सागमा ॥३१७॥
मुख्या पैतामही भुक्तिः पैतृकी चापि संमता।
त्रिभिरेतैरविच्छिन्ना स्थिरा षष्ट्याब्दिकी मता ॥३१८॥
सागमेन तु भुक्तेन सम्यग्भुक्तं यदा तु यत्।
आहर्ता लभते तत्तु नापहार्यं तु तत्कचित् ॥ ३१९ ॥
प्रनष्टागमलेख्येन भोगारूढेन वादिना।
कालः प्रमाणं दानं च कीर्तनीयानि संसदि ॥ ३२० ॥
स्मार्तकाले क्रिया भूमेः सागमा भुक्तिरिष्यते।
अस्मार्तेनुगमाभावात् क्रमात्त्रिपुरुषागता ॥ ३२१ ॥

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314 स्मृतिच० III. p. 153, परा. मा. III. p. 146, स. वि. p. 124 (reads रथ्यादिनगरद्वार). परा. मा. reads रथ्यानिर्गमनद्वारे जलवाहादिसंश्रये.

315 व्य. मा. p. 313.

316 मिता० on या. II. 24, स्मृतिच० III. p. 155, परा. मा. III. p. 147, स. वि. p. 126.

317 स्मृतिच० III. p. 167 (which reads स्वतन्त्रानागमाल्पा तु सागमा) परा. मा. III p. 141.

318 अपरार्क p. 636, वीर० p. 206, कृत्यकल्पतरु.

319 व्य. मा. p. 345 and टोडरानन्द, both ascribe to विष्णु and कात्यायन; compare विष्णुधर्मसूत्र V. 181.

320 स्मृतिच० III. p. 162, परा. मा. III. p. 140, स. वि. p. 130.

321 मिता० on या. II. 27, अपरार्क p. 636 (ascribes to स्मृत्यन्तर), व्य. मा. p. 346 (अस्मार्तकालेनुगमात् भावात् ?), परा. मा. III. p. 142 (first half), स. वि. p. 133, स्मृतिच० III. p. 163, वीर० p. 204 (ascribes to नारद).

आदौ तु कारणं दानं मध्ये भुक्तिस्तु सागमा ।
कारणं भुक्तिरेवैका संतता या त्रिपौरुषी ॥ ३२२ ॥
आहर्ता भुक्तियुक्तोपि लेख्यदोषान्विशोधयेत् ।
तत्सुतो भुक्तिदोषांस्तु लेख्यदोषांस्तु नाप्नुयात् ॥३२३॥
येनोपात्तं हि यद्द्रव्यं सोभियुक्तस्तदुद्धरेत् ।
चिरकालोपभोगेपि भुक्तिस्तस्यैव नेष्यते ॥ ३२४ ॥
चिरन्तनमविज्ञातं भोगं लोभान्न चालयेत् ॥ ३२५ ॥
पित्रा भुक्तं तु यद्द्रव्यं भुक्त्याचारेण धर्मतः ।
तस्मिन्प्रेते न वाच्योसौ भुक्त्या प्राप्तं हि तस्य तत् ॥३२६॥
त्रिभिरेव तु या भुक्ता पुरुषैर्भू यथाविधि ।
लेख्याभावेपि तां तत्र चतुर्थः समवाप्नुयात् ॥३२७॥
यथा क्षीरं जनयति दधि कालाद्रसान्वितम् ।
दानहेतुस्तथा कालाद्भोगस्त्रिपुरुषागतः ॥ ३२८ ॥
भुक्तिर्बलवती शास्त्रे सन्तता या चिरन्तनी ।
विच्छिन्नापि तु सा ज्ञेया या तु पूर्वप्रसाधिता ॥३२९॥
न भोगं कल्पयेत्स्त्रीषु देवराजधनेषु च ।
बालश्रोत्रियवित्ते च मातृतः पितृतः क्रमात् ॥ ३३० ॥

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322 अपरार्क p. 636; परा. मा. III. p. 146, व्य. मा. p. 344 and वीर० p. 206 ascribe to नारद. व्य. मा. reads आधौ तु. All except अपरार्क read चिरन्तनी for त्रिपौरुषी.

323 स्मृतिच० III. p. 164, परा. मा. III. p. 145.

324 व्य. मा. p. 343.

325 स्मृतिच० III. p. 168.

326 टोडरानन्द.

327 व्य. मा. p. 341 and टोडरानन्द (both ascribe to विष्णु and कात्यायन). Compare विष्णुधर्मसूत्र V. 187.

328 व्य. मा. p. 350.

329 कृत्यकल्पतरु, परा. मा. III. p. 145 (ascribes it to बृहस्पति).

330 कृत्यकल्पतरु, व्य. मा. p. 351 (reads श्रोत्रियवृद्धे च प्राप्तेपि पितृतः), टोडरानन्द (प्राप्ते च पितृतः), स्मृतिच० III. p. 158.

ब्रह्मचारी चरेत्कश्चिद्व्रतं षट्त्रिंशदाब्दिकम् ।
अर्थार्थी चान्यविषये दीर्घकालं वसेन्नरः ॥ ३३१ ॥
समावृत्तोऽव्रती कुर्यात्स्वधनान्वेषणं ततः ।
पञ्चाशदाब्दिको भोगस्तद्धनस्यापहारकः ॥ ३३२ ॥
प्रतिवेदं द्वादशाब्दः कालो विद्यार्थिनां स्मृतः ।
शिल्पविद्यार्थिनां चैव ग्रहणान्तः प्रकीर्तितः ॥ ३३३ ॥
सुहृद्भिर्बन्धुभिश्चैषां यत्स्वं भुक्तमपश्यताम् ।
नृपापराधिनां चैव न तत्कालेन हीयते ॥ ३३४ ॥
सनाभिभिर्बान्धवैश्च यद्भुक्तं स्वजनैस्तथा ।
भोगात्तत्र न सिद्धिः स्याद्भोगमन्यत्र कल्पयेत् ॥३३५॥

(युक्तिः)

अर्थिनाभ्यर्थितो यस्तु विघातं न प्रयोजयेत् ।
त्रिचतुःपञ्चकृत्वो वा परस्तद्दणी भवेत् ॥ ३३६ ॥
दानं प्रज्ञापना भेदः संप्रलोभक्रिया च या ।
चित्तापनयनं चैव हेतवो हि विभावकाः ॥ ३३७ ॥
एषामन्यतमो यत्र वादिना भावितो भवेत् ।
मूलक्रिया तु तत्र स्याद् भाविते वादिनिह्नवे ॥ ३३८॥

(साक्षिणः)

न कालहरणं कार्यं राज्ञा साक्षिप्रभाषणे ।
महान्दोषो भवेत्कालाद्धर्मव्यावृत्तिलक्षणः ॥ ३३९ ॥

331-32 परा. मा. III. 148, स्मृतिच॰ III. p. 158 (ascribes to नारद).

333-334 परा. मा. III. p. 148; स्मृतिच॰ III. p. 159 (ascribes to नारद) reads यत्सम्भुक्तम्.

335 अपरार्क p. 637, व्य. मा. p. 351 (reads सनाभैः and अन्येषु), वीर॰ p. 221.

336 वीर॰ p. 224.

337-338 कृत्यकल्पतरु (reads वादिनो and भावितैर्वापि), टोडरानन्द, वीर॰ pp. 224-225.

339 व्य. मा. pp. 306 (reads कालग्रहणं), 328, स. वि. p. 148 (reads काले), स्मृतिच॰ III. 214, टोडरानन्द.

उपस्थितान् परीक्षेत साक्षिणो नृपतिः स्वयम् ।
साक्षिभिर्भाषितं वाक्यं सभ्यैः सह परीक्षयेत् ॥३४०॥
सम्यक्क्रियापरिज्ञाने देयः कालस्तु साक्षिणाम् ।
संदिग्धं यत्र साक्ष्यं स्यात्सद्यः स्पष्टं विवादयेत् ॥३४१॥
सभान्तः साक्षिणः सर्वानर्थिप्रत्यर्थिसंनिधौ ।
प्राड्विवाको नियुञ्जीत विधिनानेन सान्त्वयन् ॥३४२॥
यद्द्वयोरनयोर्वेत्थ कार्येऽस्मिश्चेष्टितं मिथः ।
तद्ब्रूत सर्वं सत्येन युष्माकं ह्यत्र साक्षिता ॥ ३४३ ॥
देवब्राह्मणसान्निध्ये साक्ष्यं पृच्छेद्दतं द्विजान् ।
उदङ्मुखान्प्राङ्मुखान्वा पूर्वाह्णे वै शुचिः शुचीन् ॥
आहूय साक्षिणः पृच्छेन्नियम्य शपथैर्भृशम् ।
समस्तान्विदिताचारान् विज्ञातार्थान्पृथक्पृथक् ॥३४५॥
अर्थिप्रत्यर्थिसांनिध्यादनुभूतं तु यद्भवेत् ।
तद्ग्राह्यं साक्षिणो वाक्यमन्यथा न बृहस्पतिः ॥३४६॥
प्रख्यातकुलशीलाश्च लोभमोहविवर्जिताः ।
आप्ताः शुद्धा विशिष्टा ये तेषां साक्ष्यमसंशयम् ॥३४७॥

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340 वीर॰ p. 165 (first half), व्य. मा. p. 331, अपरार्क p. 675, मिता॰ on या. II. 80 (latter half).

341 अपरार्क p. 677 (reads सद्यः पृष्टं), स्मृतिच॰ III. p. 213, स. वि. p. 148 (reads यत्साक्ष्यं तु स्पष्टं सद्यो), टोडरानन्द (reads स्पृष्टं).

342 मिता. on या. II. 73, वीर. p. 167, अपरार्क p. 675 (no name), परा. मा. III. p. 107 (ascribes to मनु); व्य. म. ascribes this and the next two to मनु and कात्यायन.

343 वीर. p. 167, अपरार्क p. 675 (no name), परा. मा. III. p. 108 (ascribes to मनु.).

344 मिता. on या. II. 73, वीर. p. 167, अपरार्क p. 673 and परा. मा. III. p. 111 (both cite as मनु's).

345 मिता. on या. II. 73, अपरार्क p. 674 (ascribes to नारद).

346 व्य. मा. p. 317 (reads अन्यथाह), टोडरानन्द, वीर. p. 142.

347 स्मृतिच. III. p. 174, वीर. p. 149 (reads आप्ताः शिष्टा and तेषां वाक्य॰).

विभाव्यो वादिना यादृक् सदृशैरेव भावयेत् ।
नोत्कृष्टश्चावकृष्टस्तु साक्षिभिर्भावयेत्सदा ॥ ३४८ ॥
लिङ्गिनः श्रेणिपूगाश्च वणिग्व्रातास्तथापरे ।
समूहस्थाश्च ये चान्ये वर्गास्तानब्रवीद्भृगुः ॥ ३४९ ॥
दासचारणमल्लानां हस्त्यश्वायुधजीविनाम् ।
प्रत्येकैकं समूहानां नायका वर्गिणस्तथा ॥
तेषां वादः स्ववर्गेषु वर्गिणस्तेषु साक्षिणः ॥ ३५० ॥
स्त्रीणां साक्ष्यं स्त्रियः कुर्युर्द्विजानां सदृशा द्विजाः ।
शूद्राश्च सन्तः शूद्राणामन्त्यानामन्त्ययोनयः ॥ ३५१ ॥
अशक्य आगमो यत्र विदेशप्रतिवासिनाम् ।
त्रैविद्यप्रहितं तत्र लेख्यसाक्ष्यं प्रवादयेत् ॥ ३५२ ॥
अभ्यन्तरस्तु निक्षेपे साक्ष्यमेकोपि वाच्यते ।
अर्थिना प्रहितः साक्षी भवत्येकोपि दूतकः ॥ ३५३ ॥
संस्कृतं येन यत्पण्यं तत्तेनैव विभावयेत् ।
एक एव प्रमाणं स विवादे तत्र कीर्तितः ॥ ३५४ ॥
लेखकः प्राड्विवाकश्च सभ्याश्चैवानुपूर्वशः ।
नृपे पश्यति यत्कार्यं साक्षिणः समुदाहृताः ॥ ३५५ ॥

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348 वीर० p. 149.

349–50 अपरार्क p. 666, वीर० p. 149, टोडरानन्द (reads मुनिः for भृगुः).

351 टोडरानन्द (ascribes to कात्यायन and मनु), व्य. मा. p. 323 (to both मनु and कात्या.). This is मनु० 8.68.

352 अपरार्क p. 667 (reads विदेशं प्रतिवादिनाम्), टोडरानन्द.

353 व्य. मा. p. 319 (अभ्यन्तर्णनिक्षेपे and याचितः for दूतकः), स्मृतिच० III p. 175, परा. मा. III. p. 96 (first half) reads आभ्यन्तरस्तु विज्ञेयो and वा वदेत् for वाच्यते, वीर० p. 151 (reads याचिते for दूतकः), व्यवहारतत्त्व p. 214 reads एकोपि याचिते.

354 स्मृतिच० III. p. 175 (reads संस्तुतं येन संन्यस्तं), वीर. p. 151, व्यवहारतत्त्व p. 214.

355 व्य. मा. pp. 320, 323, टोडरानन्द.

अन्ये पुनरनिर्दिष्टाः साक्षिणः समुदाहृताः ।
ग्रामश्च प्राड्विवाकश्च राजा च व्यवहारिणाम् ॥३५६॥
कार्येष्वभ्यन्तरो यश्चार्थिना प्रहितश्च यः ।
कुल्याः कुलविवादेषु भवेयुस्तेपि साक्षिणः ॥ ३५७ ॥
रिक्थभागविवादे तु संदेहे समुपस्थिते ।
कुल्यानां वचनं तत्र प्रमाणं तद्विपर्यये ॥ ३५८ ॥
साक्षिणां लिखितानां तु निर्दिष्टानां च वादिना ।
तेषामेकोन्यथावादी भेदात्सर्वे न साक्षिणः ॥ ३५९ ॥
अन्येन हि कृतः साक्षी नैवान्यस्तं विवादयेत् ।
तदभावे नियुक्तो वा बान्धवो वा विवादयेत् ॥ ३६० ॥
तद्वृत्तिजीविनो ये च तत्सेवाहितकारिणः ।
तद्बन्धुसुहृदो भृत्या आप्तास्ते तु न साक्षिणः ॥३६१॥
मातृष्वसृसुताश्चैव सोदर्यासुतमातुलाः ।
एते सनाभयस्तूक्ताः साक्ष्यं तेषु न योजयेत् ॥ ३६२ ॥
कुल्याः संबन्धिनश्चैव विवाह्यो भगिनीपतिः ।
पिता बन्धुः पितृव्यश्च श्वशुरो गुरवस्तथा ॥ ३६३ ॥
नगरग्रामदेशेषु नियुक्ता ये पदेषु च ।
वल्लभाश्च न पृच्छेयुर्भक्तास्ते राजपूरुषाः ॥ ३६४ ॥

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356 व्य. मा. p. 320 and टोडरानन्द (both ascribe it to नारद and कात्यायन), व्यवहारतत्त्व p. 219 (ascribes to मनु and कात्यायन).

357 व्य. मा. p. 320 (ascribe to नारद and कात्यायन), व्यवहारतत्त्व p. 219 (ascribes to मनु and कात्यायन).

358 व्य. मा. p. 322.

359 अपरार्क p. 670, स्मृतिच० III. p. 189, व्य. मा. p. 325, परा. मा. III. p. 116, व्यवहारतत्त्व p. 215.

360 अपरार्क p. 670, व्य. मा. p. 327, स्मृतिच० III. p. 189.

361 अपरार्क p. 669, स्मृतिच० III. p. 177, व्य. मा. p. 324, वीर० p. 160.

362–363 अपरार्क pp. 669--670; व्य. मा. p. 324 makes one verse by omitting सोदर्यासुत...संबन्धिनश्चैव; स्मृतिच० III. p. 180, परा. मा. III. 99 (omits the line कुल्याः...पतिः), वीर० p.160 (adds after मातृष्वसुः सुताश्चैव the words पितृष्वसृसुतास्तथा । मातुलस्य सुताश्चैव).

364 स्मृतिच० III p. 180, अपरार्क p. 670, परा. मा. III. p. 100.

ऋणादिषु परीक्षेत साक्षिणः स्थिरकर्मसु ।
साहसात्ययिके चैव परीक्षा कुत्रचित्स्मृता ॥ ३६५ ॥
व्याघातेषु नृपाज्ञायाः संग्रहे साहसेषु च ।
स्तेयपारुष्ययोश्चैव न परीक्षेत साक्षिणः ॥ ३६६ ॥
अन्तर्वेश्मनि रात्रौ च बहिर्ग्रामाच्च यद्भवेत् ।
एतेष्वेवाभियोगश्चेन्न परीक्षेत साक्षिणः ॥ ३६७ ॥
न साक्ष्यं साक्षिभिर्वाच्यमपृष्टैरर्थिना सदा ।
न साक्ष्यं तेषु विद्येत स्वयमात्मनि योजयेत् ॥३६८॥
लेख्यारूढश्चोत्तरश्च साक्षी मार्गद्वयान्वितः ॥ ३६९ ॥
अथ स्वहस्तेनारूढस्तिष्ठंश्चैकः स एव तु ।
न चेत्प्रत्यभिजानीयात् तत्स्वहस्तैः प्रसाधयेत् ॥३७०॥
आर्थिना स्वयमानीतो यो लेख्ये संनिवेश्यते ।
स साक्षी लिखितो नाम स्मारितः पत्रकादृते ॥३७१॥
यस्तु कार्यप्रसिद्ध्यर्थं दृष्ट्वा कार्यं पुनः पुनः ।
स्मार्यते ह्यर्थिना साक्षी स स्मारित इहोच्यते ॥३७२॥
प्रयोजनार्थमानीतः प्रसङ्गादागतश्च यः ।
द्वौ साक्षिणौ त्वलिखितौ पूर्वपक्षस्य साधकौ ॥३७३॥
अर्थिना स्वार्थसिद्ध्यर्थं प्रत्यर्थिवचनं स्फुटम् ।
यः श्रावितः स्थितो गूढो गूढसाक्षी स उच्यते ३७४
साक्षिणामपि यः साक्ष्यमुपर्युपरि भाषते ।
श्रवणाच्छ्रावणाद्वापि स साक्ष्युत्तरसंज्ञितः ॥ ३७५ ॥

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365 स्मृतिच० III p. 183, व्य. मा. p. 327 (reads परीक्षा न कचिन्मता), वीर० p. 162, व्यवहारतत्त्व p. 214.

366 अपरार्क p. 670, स्मृतिच० p. 183, व्य. मा. p. 328.

267 अपरार्क p. 671, व्य. मा. p. 328.

368 व्य. मा. p. 326.

369 स्मृतिच० III. p. 184.

370 वीर० p. 147.

371—372 मिता० on या. II. 68, वीर० p. 143.

373–375 मिता० on या. II. 68, वीर० pp. 143–144., स. वि. p. 142.

उल्लाप्यं यस्य विश्रम्भात्कार्यं वा विनिवेदितम् ।
गूढचारी स विज्ञेयः कार्यमध्यगतस्तथा ॥ ३७६ ॥
अर्थी यत्र विपन्नः स्यात्तत्र साक्षी मृतान्तरः ।
प्रत्यर्थी च मृतो यत्र तत्राप्येवं प्रकल्प्यते ॥ ३७७ ॥

(साक्षिदोषोद्भावनम्)

लेख्यदोषास्तु ये केचित्साक्षिणां चैव ये स्मृताः ।
वादकाले तु वक्तव्याः पश्चादुक्तान्न दूषयेत् ॥ ३७८ ॥
उक्तेर्थे साक्षिणो यस्तु दूषयेत्प्रागदूषितान् ।
न च तत्कारणं ब्रूयात् प्राप्नुयात्पूर्वसाहसम् ॥ ३७९ ॥
नातथ्येन प्रमाणं तु दोषेणैव तु दूषयेत् ।
मिथ्याभियोगे दण्ड्यः स्यात्साध्यार्थाच्चापि हीयते ॥ ३८० ॥
प्रत्यर्थिनार्थिना वापि साक्षिदूषणसाधने ।
प्रस्तुतार्थोपयोगित्वाद् व्यवहारान्तरं न च ॥ ३८१ ॥
साक्षिदोषाः प्रवक्तव्याः संसदि प्रतिवादिना ।
पत्रे विलिख्य तान्सर्वान् वाच्यः प्रत्युत्तरं ततः ॥३८२
प्रतिपत्तौ तु साक्षित्वमर्हन्ति न कदाचन ।
अतोन्यथा भावनीयाः क्रियया प्रतिवादिना ॥ ३८३॥
अभावयन्धनं दाप्यः प्रत्यर्थी साक्षिणः स्फुटम् ।
भाविताः साक्षिणः सर्वे साक्षिधर्मनिराकृताः ॥३८४॥

376–377 टोडरानन्द.

378 स्मृतिच० III. p. 192, टोडरानन्द, स. वि. p. 143. अपरार्क p. 672 and व्य. म. p. 39 and वीर० p. 164 ascribe it to बृहस्पति. टोडरानन्द reads पश्चाद्वक्ता न.

379 अपरार्क p. 673, व्य. मा. p. 327, स्मृतिच० III. p. 192, स.वि. p. 144, टोडरानन्द (reads न तत्र कारणं), व्य. म. p. 39, वीर० p. 164.

380 अपरार्क p. 671, स्मृतिच० III. p. 192, स. वि. p. 144, वीर० p. 164.

381 परा. मा. III. p. 106, वीर० p. 163, स. वि. p. 145 (reads न तु साक्ष्यभियोगः स्यात् व्यवहारान्तरं तथा).

382–384 परा. मा. III. p. 106. मिता० on या. II. 72 has 384 (reads दूषणं साक्षिणां स्फुटम्). व्य. म. p. 38 attribute these to व्यास. स. वि. p. 144 has 384 (and attributes it to कात्या.), वीर० p. 165 (attributes 384 to व्यास).

आकारेङ्गितचेष्टाभिस्तस्य भावं विभावयेत् ।
प्रतिवादी भवेद्धीनः सोनुमानेन लक्ष्यते ॥ ३८५ ॥
कम्पः स्वेदोथ वैकल्यमोष्ठशोषाभिमर्शने ।
भूलेखनं स्थानहानिस्तिर्यगूर्ध्वनिरीक्षणम् ।
स्वरभेदश्च दुष्टस्य चिह्नान्याहुर्मनीषिणः ॥ ३८६ ॥
सभान्तःस्थैस्तु वक्तव्यं साक्ष्यं नान्यत्र साक्षिभिः ।
सर्वसाक्ष्येष्वयं धर्मो ह्यन्यत्र स्थावरेषु तु ॥ ३८७ ॥
अर्थिप्रत्यर्थिसांनिध्ये साध्यार्थस्य च संनिधौ ।
प्रत्यक्षं देशयेत्साक्ष्यं परोक्षं न कथंचन ॥ ३८८ ॥
अर्थस्योपरि वक्तव्यं तयोरपि विना क्वचित् ।
चतुष्पदेष्वयं धर्मो द्विपदस्थावरेषु च ॥ ३८९ ॥
तौल्यगणिममेयानामभावेपि विवादयेत् ।
क्रियाकारेषु सर्वेषु साक्षित्वं न ततोन्यथा ॥ ३९० ॥
वधे चेत्प्राणिनां साक्ष्यं वादयेच्छिवसंनिधौ ।
तदभावे तु चिह्नस्य नान्यथैव प्रवादयेत् ॥ ३९१ ॥
स्वभावोक्तं वचस्तेषां ग्राह्यं यद्दोषवर्जितम् ।
उक्ते तु साक्षिणो राज्ञा न प्रष्टव्याः पुनः पुनः ॥३९२॥
स्वभावेनैव यद्ब्रूयुस्तद् ग्राह्यं व्यावहारिकम् ।
अतो यदन्यद्विब्रूयुर्धर्मार्थं तदपार्थकम् ॥ ३९३ ॥

385-86 व्य. मा. p. 312-13, वीर० p. 96.

387 स्मृतिच० III. p. 206, अपरार्क p. 675, परा. मा. III. p. 112 (reads नित्यः स्यात्स्थावरेषु च).

388 टोडरानन्द, व्य. म. p. 41.

389 स्मृतिच० III. p. 206, परा. मा. III. p. 113, व्य. म. p. 41.

390 टोडरानन्द, व्य. म. p. 41.

391 स्मृतिच० III. p. 206, परा. मा. III. p. 113, व्य. म. p. 41

392 मिता. on या. II. 79 (no name), अपरार्क p. 675, स्मृतिच० III. p. 208.

393 स्मृतिच० III. p. 209, परा. मा. III. p. 113 (ascribes to मनु). This is मनु 8. 78.

समवेतैस्तु यद्दृष्टं वक्तव्यं तत्तथैव तु ।
विभिन्नैकैककार्यं यद्वक्तव्यं तत्पृथक् पृथक् ॥ ३९४ ॥
भिन्नकाले तु यत्कार्यं विज्ञातं तत्र साक्षिभिः ।
एकैकं वादयेत्तत्र भिन्नकालं तु तद्भृगुः ॥ ३९५ ॥
ऋणादिषु विवादेषु स्थिरप्रायेषु निश्चितम् ।
ऊने वाप्यधिके वार्थे प्रोक्ते साध्यं न सिध्यति ॥३९६॥
साध्यार्थांशेपि गदिते साक्षिभिः सकलं भवेत् ।
स्त्रीसङ्गे साहसे चौर्ये यत्साध्यं परिकल्पितम् ॥३९७॥
ऊनाधिकं तु यत्र स्यात्तत्साक्ष्यं तत्र वर्जयेत् ।
साक्षी तत्र न दण्ड्यः स्यादब्रुवन्दण्डमर्हति ॥ ३९८ ॥
देशं कालं धनं संख्यां रूपं जात्याकृती वयः ।
विसंवदेद्यत्र साक्ष्ये तदनुक्तं विदुर्बुधाः ॥ ३९९ ॥
निर्दिष्टेष्वर्थजातेषु साक्षी चेत्साक्ष्य आगते ।
न ब्रूयादक्षरसमं न तन्निगदितं भवेत् ॥ ४०० ॥
ऊनमभ्यधिकं वार्थं विब्रूयुर्यत्र साक्षिणः ।
तदप्ययुक्तं विज्ञेयमेष साक्षिविनिश्चयः ॥४०१॥

(साक्षिणां दोषा दण्डाश्च)

अपृष्टः सर्ववचने पृष्टस्याकथने तथा ।
साक्षिणः संनिरोद्धव्या गर्ह्या दण्ड्याश्च धर्मतः ॥४०२॥

394-395 व्य. मा. p. 329 (reads विभिन्ने चैव यत्कार्यं), अपरार्क p. 675; परा. मा. III. p. 113 attributes to वसिष्ठ and reads विभिन्नैरेव तत्कार्यं and विधिरेष प्रकीर्तितः for भिन्नकालं तु &c.; व्य. म. p. 42 and स. वि. p. 208 and वीर. p. 168 also ascribe to वसिष्ठ and read as परा. मा. does.

396-397 मिता. on या. II. 20, अपरार्क p. 678, स्मृतिच० III. p. 209, व्य. मा. p. 312 (has 396 only).

398-399 स्मृतिच० III. p. 210, अपरार्क p. 678, व्य. मा. p. 333 (has 398).

400-401 स. वि. p. 147. परा. मा. III. p. 114 ascribes the two to बृहस्पति and व्य. मा. p. 33 ascribes to नारद.

402-403 स्मृतिच० III. pp. 212-213, परा. मा. III. p. 116 ascribes 402 to प्रजापति.

वाक्पारुष्ये छले वादे दाप्याः स्युस्त्रिशतं दमम् ।
ऋणादिवादेषु धनं ते स्युर्दाप्या ऋणं तथा ॥४०३॥
यः साक्षी नैव निर्दिष्टो नाहूतो नापि दर्शितः ।
ब्रूयान्मिथ्येति तथ्यं वा दण्ड्यः सोपि नराधमः॥४०४॥
साक्षी साक्ष्यं न चेद्ब्रूयात्समदण्डं वहेद्दणम् ।
अतोन्येषु विवादेषु त्रिशतं दण्डमर्हति ॥ ४०५ ॥
उक्त्वान्यथा ब्रुवाणाश्च दण्ड्याः स्युर्वाक्छलान्विताः ॥४०६॥
येन कार्यस्य लोभेन निर्दिष्टाः कूटसाक्षिणः ।
गृहीत्वा तस्य सर्वस्वं कुर्यान्निर्विषयं ततः ॥४०७॥
यत्र वै भावितं कार्यं साक्षिभिर्वादिना भवेत् ।
प्रतिवादी यदा तत्र भावयेत्कार्यमन्यथा ॥
बहुभिश्च कुलीनैर्वा पूर्वाः स्युः कूटसाक्षिणः ॥४०८॥
यदा शुद्धा क्रिया न्यायात्तदा तद्वाक्यशोधनम् ।
शुद्धाच्च वाक्याद्यः शुद्धः स शुद्धोर्थ इति स्थितिः ॥४०९॥
सप्ताहात्तु प्रतीयेत यत्र साक्ष्यनृतं वदेत् ।
रोगोग्निर्ज्ञातिमरणं द्विसप्ताहात्त्रिसप्त वा ।
षट्चत्वारिंशके वापि द्रव्यजात्यादिभेदतः ॥४१०॥

(दिव्यानि तेषां च विवादपदविषयिणी व्यवस्था)

न कश्चिदभियोक्तारं दिव्येषु विनियोजयेत् ।
अभियुक्ताय दातव्यं दिव्यं दिव्यविशारदैः ॥४११॥

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404 व्य. मा. p. 326, टोडरानन्द, व्यवहारतत्त्व p. 216. स्मृतिच० III. 212 ascribes to वसिष्ठ.

405 अपरार्क p. 677, परा. मा. III. p. 115, स्मृतिच० III. 213, टोडरानन्द.

406 मिता० on या. II. 82, स्मृतिच० III. 214, वीर० p. 184.

407 अपरार्क p 672, स्मृतिच० III. p. 217.

408 अपरार्क p. 679, व्य. मा. p. 335 (read साक्षिभिः पूर्ववादिनां and अनुक्तास्तु कुलीनैर्वा), स्मृतिच० III. p. 218, वीर० p. 179.

409 मिता० on या. II. 80, अपरार्क 676, व्य. मा. p. 336 (which reads क्रिया न स्यात् and last line as शुद्धतायां तु वाक्यार्थः शुद्धः शुद्धोन्यथा न तु), वीर० p. 174.

410 स. वि. p. 149.

411 अपरार्क p. 695, स्मृतिच० III. p. 224, परा. मा. III. p. 152, स. वि. p. 167, वीर० p. 228.

पार्थिवैः शङ्कितानां तु तुलादीनि नियोजयेत् ।
आत्मशुद्धिविधाने च न शिरस्तत्र कल्पयेत् ॥४१२॥
लोकापवाददुष्टानां शङ्कितानां च दस्युभिः ।
तुलादीनि नियोज्यानि न शिरस्तत्र वै भृगुः ॥४१३॥
न शङ्कासु शिरः कोशे कल्पयेत्तु कदाचन ।
अशिरांसि च दिव्यानि राजभृत्येषु दापयेत् ॥ ४१४॥
शङ्काविश्वाससंधाने विभागे रिक्थिनां सदा ।
क्रियासमूहकर्तृत्वे कोशमेव प्रदापयेत् ॥ ४१५॥
दत्तस्यापह्नवो यत्र प्रमाणं तत्र कल्पयेत् ।
स्तेयसाहसयोर्दिव्यं स्वल्पेऽप्यर्थे प्रदापयेत् ॥ ४१६॥
सर्वद्रव्यप्रमाणं तु ज्ञात्वा हेम प्रकल्पयेत् ।
हेमप्रमाणयुक्तं तु तदा दिव्यं नियोजयेत् ॥ ४१७॥
ज्ञात्वा संख्यां सुवर्णानां शतनाशे विषं स्मृतम् ।
अशीतेस्तु विनाशे वै दद्याच्चैव हुताशनम् ॥ ४१८॥
षष्ट्या नाशे जलं देयं चत्वारिंशति वै घटम् ।
विंशद्दशविनाशे वै कोशपानं विधीयते ॥ ४१९॥
पञ्चाधिकस्य वा नाशे तदर्धार्धस्य तन्दुलाः ।
तदर्धार्धस्य नाशे तु स्पृशेत्पुत्रादिमस्तकम् ॥ ४२०॥

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412 स्मृतिच० III. p. 225, परा. मा. III. p. 153 (reads निर्दिष्टानां च दस्युभिः । शङ्काशुद्धिपराणां च दिव्यं देयं शिरो विना), वीर० p. 229 (which reads mostly like परा. मा).

413 अपरार्क p. 696, स्मृतिच० III. p. 226, परा. मा. III p. 153.

414 अपरार्क p. 696 (first half), स्मृतिच० III. p. 226, परा. मा. III. p. 153.

415 स्मृतिच० III. p. 226, परा. मा. III. p. 154, वीर० p. 229, स. वि. p. 168, अपरार्क p. 695 (no name).

416-417 मिता० on या. II. 99, अपरार्क p. 700, स्मृतिच० III. p. 232 (omits the half स्तेय &c.), टोडरानन्द, स. वि. pp. 173, 179, वीर० p. 231. स्मृतिच० reads सर्वं द्रव्य०.

418-421 मिता. on या. II. 99, स्मृतिच० p. 233 and अपरार्क p. 700 (omits एवं विचारयन्...हीयते), परा. मा. III. p. 155 (omits एवं...हीयते), वीर० p. 231, स. वि. pp. 174 and 178 (p.178 presents two other verses on same subject शते विषं तु पादोने दत्तभुक्ततृतीयके । आप-

तदर्धार्धस्य नाशे तु लौकिकाश्च क्रियाः स्मृताः ।
एवं विचारयन्राजा धर्मार्थाभ्यां न हीयते ॥ ४२१॥

(दिव्यानामर्थिप्रत्यर्थिजातिशिल्पानुसारिण्यो व्यवस्थाः)

राजन्येऽग्निं घटं विप्रे वैश्ये तोयं नियोजयेत् ।
सर्वेषु सर्वदिव्यं वा विषं वर्ज्यं द्विजोत्तमे ॥४२२॥
गोरक्षकान्वाणिजकांस्तथा कारुकुशीलवान् ।
प्रेष्यान्वार्धुषिकांश्चैव ग्राहयेच्छूद्रवद् द्विजान् ॥४२३॥
न लोहशिल्पिनामग्निं सलिलं नाम्बुसेविनाम् ।
मन्त्रयोगविदां चैव विषं दद्याच्च न क्वचित् ॥
तण्डुलैर्न नियुञ्जीत व्रतिनं मुखरोगिणम् ॥४२४॥
कुष्ठिनां वर्जयेदग्निं सलिलं श्वासकासिनाम् ।
पित्तश्लेष्मवतां नित्यं विषं तु परिवर्जयेत् ॥४२५॥
मद्यपस्त्रीव्यसनिनां कितवानां तथैव च ।
कोशः प्राज्ञैर्न दातव्यो ये च नास्तिकवृत्तयः ॥४२६॥
मातापितृद्विजगुरुबालस्त्रीराजघातिनाम् ।
महापातकयुक्तानां नास्तिकानां विशेषतः ॥ ४२७॥
लिङ्गिनां प्रशठानां तु मन्त्रयोगक्रियाविदाम् ।
वर्णसंकरजातानां पापाभ्यासप्रवर्तिनाम् ॥ ४२८॥
एतेष्वेवाभियोगेषु निन्द्येष्वेव च यत्नतः ।
दिव्यं प्रकल्पयेन्नैव राजा धर्मपरायणः ॥ ४२९ ॥

त्रिभागहीने तु शतार्धे तु तुला स्मृता ॥ कोशदानं तदर्धे वा दशपञ्चकसप्तसु । तदर्धे तण्डुला ज्ञेयास्तदर्धे तप्तमाषकम् ॥ and ascribes 418-419 to वृद्धमनु).

422-423 स्मृतिच० III. p 239 (has the latter half of 422), अपरार्क p. 698, टोडरानन्द, वीर० pp. 235, 237, स. वि. p. 180 (verse 423 only.)

424 अपरार्क p. 699 (reads चैव नाग्निदिव्यं विधीयते), स्मृतिच० III. p. 240, परा. मा. III. p. 160 (reads व्रतिनां मुखरोगिणाम्), स. वि. p. 173 (व्रणिनं), वीर० p. 236, व्य. म. p. 48.

425-426 स. वि. p. 173, मिता० on या. II. 98 has 425, but names no author, व्य. म. p. 49 has verse 426 but ascribes it to पितामह; वीर० p. 237 ascribes both to पितामह.

427-430 स्मृतिच० III. p. 241, परा. मा. III. pp. 160-161, वीर० p. 238, टोडरानन्द. परा. मा. reads प्रशमानां and टोडरानन्द and वीर० read

एतैरेव नियुक्तानां साधूनां दिव्यमर्हति ।
नेच्छान्ति साधवो यत्र तत्र शोध्याः स्वकैर्नरैः ॥४३०॥
महापातकयुक्तेषु नास्तिकेषु विशेषतः ।
न देयं तेषु दिव्यं तु पापाभ्यासरतेषु च ॥ ४३१॥
एषु वादेषु दिव्यानि प्रतिषिद्धानि यत्नतः ।
कारयेत्सज्जनैस्तानि नाभिशस्तं त्यजेन्मनुः ॥४३२॥
अस्पृश्याधमदासानां म्लेच्छानां पापकारिणाम् ।
प्रातिलोम्यप्रसूतानां निश्चयो न तु राजनि ॥
तत्प्रसिद्धानि दिव्यानि संशये तेषु निर्दिशेत् ॥ ४३३ ॥

(दिव्यदेशाः)

इन्द्रस्थानेभिशस्तानां महापातकिनां नृणाम् ।
नृपद्रोहे प्रवृत्तानां राजद्वारे प्रयोजयेत् ॥४३४॥
प्रातिलोम्यप्रसूतानां दिव्यं देयं चतुष्पथे ।
अतोन्येषु सभामध्ये दिव्यं देयं विदुर्बुधाः ॥४३५॥
कालदेशाविरोधे तु यथायुक्तं प्रकल्पयेत् ।
अन्येन हारयेद्दिव्यं विधिरेष विपर्यये ॥ ४३६ ॥
अदेशकालदत्तानि बहिर्वासकृतानि च ।
व्यभिचारं सदार्थेषु कुर्वन्तीह न संशयः ॥४३७॥

प्रमदानां for प्रशठानां; परा. मा. reads न सन्ति साधवः.

431-432 टोडरानन्द, वीर० p. 238, स्मृतिच० III. 242 (has 432 only), अपरार्क p. 696 (ascribes 432 to भृगु).

433 मिता० on या. II. 99, स्मृतिच० III. 242, परा. मा. III. p. 161 (reads धनदारापहाराणां म्लेच्छानां), वीर० p. 238, व्य. म. p. 49 (reads समये for संशये).

434-435 मिता. on या. II. 99, स्मृतिच० p. 244, परा. मा. III. p. 163 (reads दण्डस्थाने for इन्द्रस्थाने), टोडरानन्द, स. वि. p. 183, वीर० p. 241.

436 टोडरानन्द, वीर० p. 238.

437-439 अपरार्क p. 697; परा. मा. III. p. 163 and वीर० p. 241 have

साधयेत्तत्पुनः साध्यं व्याघाते साधनस्य हि ।
दत्तान्यपि यथोक्तानि राजा दिव्यानि वर्जयेत् ॥
मूर्खैर्लुब्धैश्च दुष्टैश्च पुनर्देयानि तानि वै ॥४३८॥
तस्माद्यथोक्तविधिना दिव्यं देयं विशारदैः ।
अयथोक्तप्रयुक्तं तु न शक्तं तस्य साधने ॥४३९॥
शिक्यच्छेदे तुलाभङ्गे तथा चापि गुणस्य वा ।
शुद्धेस्तु संशये चैव परीक्षेत पुनर्नरम् ॥४४०॥

(अग्निदिव्यविधिः)

प्रस्खलत्यभियुक्तश्चेत्स्थानादन्यत्र दह्यते ।
न दग्धं तु विदुर्देवास्तस्य भूयोपि दापयेत् ॥४४१॥

(उदकदिव्यविधिः)

शरांस्त्वनायसैरग्रैः प्रकुर्वीत विशुद्धये ।
वेणुकाण्डमयांश्चैव क्षेप्ता च सुदृढं क्षिपेत् ॥४४२॥
क्षिप्ते तु मज्जनं कार्यं गमनं समकालिकम् ।
गमने त्वागमः कार्यः पुमानन्यो जले विशेत् ॥४४३॥
शिरोमात्रं तु दृश्येत न कर्णौ नापि नासिका ।
अप्सु प्रवेशने यस्य शुद्धं तमपि निर्दिशेत् ॥४४४॥
निमज्ज्योत्प्लवते यस्तु दृष्टश्चेत्प्राणिभिर्नरः ।
पुनस्तत्र निमज्जेत्स देशचिह्नविभाविते ॥४४५॥

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only verse 437 which they ascribe to नारद; स्मृतिच॰ p. 244 has 437; टोडरानन्द has verse 439 (which ascribes it to बृहस्पति and कात्यायन).

440 अपरार्क p.704, स्मृतिच॰ III. p. 259, व्य. म. p. 61, वीर॰ p. 254.

441 अपरार्क p. 709, मिता॰ on या. II. 107 (which reads प्रस्खलन्नभिशस्तश्चेत्), परा. मा. III. p. 181 (प्रज्वालेनाभिशस्तश्चेत्), स्मृतिच॰ III. p. 271, वीर॰ p. 267, स. वि. p. 199.

442 अपरार्क p. 709, मिता॰ on या. II. 109 (no name) reads शरांश्चानायसाग्रांस्तु), टोडरानन्द, व्य. म. p. 77 परा. मा. III. p. 183 (no name), वीर॰ p. 268, स. वि. p 200.

443 अपरार्क p. 710, वीर॰ p 272 (first half).

444-445 अपरार्क 711, टोडरानन्द (reads निमज्जेत अङ्गचिह्नविभाविते), वीर॰ ps 273 (has only 444), परा. मा. III. p. 186 (has both and read निमज्जंस्तु स सचिह्नविभाविते), स. वि. p. 203 (has 444 without name).

(विषादिव्यविधिः)

अजाशृङ्गनिभं श्यामं सुपीनं शृङ्गसंभवम् ।
भङ्गे च शृङ्गवेराभं ख्यातं तच्छृङ्गिणां विषम् ॥४४६॥
रक्तं तदक्षितं कुर्यात्कठिनं चैव तत्क्षणात् ।
अनेन विधिना ज्ञेयं दिव्यं दिव्यविशारदैः ॥४४७॥
वत्सनाभनिभं पीतं वर्णज्ञानेन निश्चयः ।
शुक्तिशङ्खाकृतिर्भङ्गे विद्यात्तद्वत्सनाभकम् ॥४४८॥
मधुक्षीरसमायुक्तं स्वच्छं कुर्वीत तत्क्षणात् ।
बाह्यमेवं समाख्यातं लक्षणं धर्मसाधकैः ॥४४९॥
पूर्वाह्णे शीतले देशे विषं दद्यात्तु देहिनाम् ।
घृतेन योजितं श्लक्ष्णं पिष्टं त्रिंशद्गुणेन तु ॥४५०॥
विषस्य पलषड्भागाद्भागो विंशतिमस्तु यः ।
तमष्टभागहीनं तु शोध्ये देयं घृताप्लुतम् ॥४५१॥

(कोशदिव्यविधिः)

स्वल्पेपराधे देवानां स्नापयित्वायुधोदकम् ।
पाय्यो विकारे चाशुद्धो नियम्यः शुचिरन्यथा ॥४५२॥

(तण्डुलविधिः)

देवतास्नानपानीयदिव्ये तण्डुलभक्षणे ।
शुद्धनिष्ठीवनाच्छुद्धो नियम्योशुचिरन्यथा ॥४५३॥
अवष्टम्भाभियुक्तस्य विशुद्धस्यापि कोशतः ।
सदण्डमभियोगं च दापयेदभियोजकम् ॥
दिव्येन शुद्धं पुरुषं सत्कुर्याद्धार्मिको नृपः ॥४५४॥

446-448 अपरार्क p. 712, टोडरानन्द (reads सुपीतं), वीर० p. 274 (has all three).

449 अपरार्क p. 712, टोडरानन्द, वीर० p. 274

450 मिता० on या. II. 111, अपरार्क p. 712, परा. मा. III. p. 188, स. वि. p. 206 and वीर० p. 275 (both read त्रिंशद्गुणान्वितम्).

451 अपरार्क p. 713. मिता० on या. II. 111, परा. मा. III. p. 188 and वीर० p. 274 ascribe it to नारद. It is नारद (ऋणादान verse 323).

452 अपरार्क p. 714, टोडरानन्द, वीर० p. 279 (reads पाययित्वायुधोदकम्).

453 टोडरानन्द and व्य. म. p. 83, वीर० pp. 282–283.

454 टोडरानन्द.

शोणितं दृश्यते यत्र हनुवालं च सीदति ।
गात्रं च कम्पते यस्य तमशुद्धं विनिर्दिशेत् ॥४५५॥
अथ दैवविसंवादात्त्रिसप्ताहात्तु दापयेत् ।
अभियुक्तं तु यत्नेन तमर्थं दण्डमेव च ॥४५६॥
तस्यैकस्य न सर्वस्य जनस्य यदि तद्भवेत् ।
रोगोऽग्निर्ज्ञातिमरणमृणं दाप्यो दमं च सः ॥४५७॥
क्षयातिसारविस्फोटास्तात्वस्थिपरिपीडनम् ।
नेत्ररुग्गलरोगश्च तथोन्मादः प्रजायते ।
शिरोरुग्भुजभङ्गश्च दैविका व्याधयो नृणाम् ॥४५८॥
शतार्धं दापयेच्छुद्धमशुद्धो दण्डभाग्भवेत् ॥४५९॥
विषे तोये हुताशे च तुलाकोशे च तण्डुले ।
तप्तमाषकदिव्ये च क्रमाद्दण्डं प्रकल्पयेत् ॥४६०॥
सहस्रं षट्शतं चैव तथा पञ्च शतानि च ।
चतुस्त्रिद्व्येकमेवं च हीनं हीनेषु कल्पयेत् ॥४६१॥

(शपथविधिः)

यत्रोपदिश्यते कर्म कर्तुरङ्गं न तूच्यते ।
दक्षिणस्तत्र विज्ञेयः कर्मणां पारगः करः ॥४६२॥
आचतुर्दशकादह्नो यस्य नो राजदैविकम् ।
व्यसनं जायते घोरं स ज्ञेयः शपथे शुचिः ॥४६३॥

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455 टोडरानन्द (ascribes to both बृहस्पति and कात्यायन); अपरार्क p. 715 and व्य. म. p. 83 ascribe to पितामह. It is नारद (ऋणादान 342)

456 अपरार्क p. 715, स्मृतिच० III. p. 273 (reads दैवविसंवादः and अभियुक्तं प्रसन्नेन), व्य. म. p. 88.

457 व्य. म. p. 88, व्यवहारतत्त्व p. 229.

558 स्मृतिच० p. 273, व्य. म. p. 88 (reads ज्वरातीसारविस्फोटगूढास्थि०), व्यवहारतत्त्व p. 229 (reads ज्वराती० as व्य. म. does).

459 मिता. on या. II. 113, स्मृतिच० III. p. 288, परा. मा. III. p. 204 (reads न दण्डं दापयेच्छुद्धं न शुद्धो), टोडरानन्द ascribes to मनु and कात्यायन.

460–461 मिता. on या. II. 113, स्मृतिच० III. p. 288, परा. मा III. p. 204, टोडरानन्द (ascribes to मनु and कात्यायन).

462 वीर० p. 287.

(उन्मत्तास्वतन्त्रादिकृतानां विचारः)

उन्मत्तेनैव मत्तेन तथा भावान्तरेण वा ।
यद्दत्तं यत्कृतं वाथ प्रमाणं नैव तद्भवेत् ॥ ४६४ ॥
अस्वतन्त्रकृतं कार्यं तस्य स्वामी निवर्तयेत् ।
न भर्त्रा विवदेतान्यो भीतोन्मत्तकृताद्दते ॥ ४६५ ॥
पिताऽस्वतन्त्रः पितृमान् भ्राता भातृव्य एव वा ।
कनिष्ठो वाविभक्तस्वो दासः कर्मकरस्तथा ॥ ४६६ ॥
न क्षेत्रगृहदासानां दानाधमनविक्रयाः ।
अस्वतन्त्रकृताः सिद्धिं प्राप्नुयुर्नानुवर्णिताः ॥४६७॥
प्रमाणं सर्व एवैते पण्यानां क्रयविक्रये ।
यदि संव्यवहारं ते कुर्वन्तोप्यनुमोदिताः ॥ ४६८ ॥
क्षेत्रादीनां तथैव स्युर्भ्राता भ्रातृसुतः सुतः ।
निसृष्टाः कृत्यकरणे गुरुणा यदि गच्छता ॥ ४६९ ॥
निसृष्टार्थस्तु यो यस्मिन् तस्मिन्नर्थे प्रभुस्तु सः ।
तद्भर्ता तत्कृतं कार्यं नान्यथा कर्तुमर्हति ॥ ४७० ॥
सुतस्य सुतदाराणां वशित्वं त्वनुशासने ।
विक्रये चैव दाने च वशित्वं न सुते पितुः ॥४७१॥

(निर्णयकृत्यम्)

शुद्धिस्तु शास्त्रतत्त्वज्ञैश्चिकित्सा समुदाहृता ।
प्रायश्चित्तं च दण्डं च ताभ्यां सा द्विविधा स्मृता॥४७२॥

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463 व्य. म. p. 88 (reads शपथैः), वीर० p. 287, व्यवहारतत्त्व p. 229.

464 स्मृतिच० III. p. 305, परा. मा. III. p. 216 (reads वाचान्तरेण for भावान्तरेण).

465 स्मृतिच० III. p. 306, स. वि. pp. 501-502 (reads न वार्ता दिवदेतान्यो ?)

466 टोडरानन्द, वीर० p. 128.

467-471 स्मृतिच० III. pp. 307-309, परा. मा. III. pp. 217-219 (has all five except 470), टोडरानन्द (reads नानुमोदिताः for नानुवर्णिताः in 467), वीर० pp. 126-128.

472 स्मृतिच० III. p. 300, स. वि. p. 502.

अनेकार्थाभियोगेपि यावत्संसाधयेद्धनी ।
साक्षिभिस्तावदेवासौ लभते साधितं धनम् ॥४७३॥
सर्वापलापं यः कृत्वा मिथोल्पमपि संवदेत् ।
सर्वमेव तु दाप्यः स्यादभियुक्तो बृहस्पतिः ॥ ४७४ ॥
एवं धर्मासनस्थेन समेनैव विवादिना ।
कार्याणां निर्णयो दृश्यो ब्राह्मणैः सह नान्यथा ॥४७५॥
व्यवहारान्स्वयं दृष्ट्वा श्रुत्वा वा प्राड्विवाकतः ।
जयपत्रं ततो दद्यात् परिज्ञानाय पार्थिवः ॥ ४७६ ॥

(दण्डविधिः)

राजा तु स्वामिने विप्रं सान्त्वेनैव प्रदापयेत् ।
देशाचारेण चान्यांस्तु दुष्टान् संपीड्य दापयेत् ॥४७७॥
रिक्थिनं सुहृदं वापि च्छलेनैव प्रदापयेत् ।
वणिजः कर्षकांश्चापि शिल्पिनश्चाब्रवीद्भृगुः ॥४७८॥
धनदानासहं बुद्ध्वा स्वाधीनं कर्म कारयेत् ।
अशक्तौ बन्धनागारं प्रवेश्यो ब्राह्मणादृते ॥ ४७९ ॥
कर्षकान् क्षत्रविट्शूद्रान् समीहानांस्तु दापयेत् ॥४८०॥

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473 मिता. on या. II. 20, अपरार्क p. 625, व्य. मा. p. 312 (reads नाधिकं धनम्), स्मृतिच० III. p. 283, परा. मा. III p. 203, वि. र. p. 48, वीर० p. 132.

474 व्य. मा. p. 311 (reads मिथ्याल्पमपि and दाप्यं स्यादिति युक्तो), स्मृतिच० III. p. 283.

475 स्मृतिच० III. p 289.

476 टोडरानन्द.

477 मिता. on या. II. 40, अपरार्क p. 645 (reads स्वामिनो), स्मृतिच० III p. 285, परा मा. III. p. 200.

478 मिता० on या. II. 40 (first half only), अपरार्क p. 645 (first half only), परा. मा III. pp. 200 and 256, स्मृतिच० III. p. 284 (first half). अपरार्क reads छलेन न च दापयेत्.

479 मिता. on या. II. 26, अपरार्क p. 633 (reads बद्ध्वा स्वामिनः कर्म), स्मृतिच० III. pp. 292 and 390, परा. मा. III. p. 209.

480 स्मृतिच० III p. 384.

आचार्यस्य पितुर्मातुर्बान्धवानां तथैव च ।
एतेषामपराधेषु दण्डो नैव विधीयते ॥४८१॥
प्राणात्यये तु यत्र स्यादकार्यकरणं कृतम् ।
दण्डस्तत्र तु नैव स्यादेष धर्मो भृगुस्मृतः ॥४८२॥
न जातु ब्राह्मणं हन्यात्सर्वपापेष्ववस्थितम् ।
राष्ट्रादेनं बहिः कुर्यात्समग्रधनमक्षतम् ॥४८३॥
चतुर्णामपि वर्णानां प्रायश्चित्तमकुर्वताम् ।
शारीरधनसंयुक्तं दण्डं धर्म्यं प्रकल्पयेत् ॥४८४॥
येन दोषेण शूद्रस्य दण्डो भवति धर्मतः ।
तेन चेत्क्षत्रविप्राणां द्विगुणो द्विगुणो भवेत् ॥४८५॥
प्रव्रज्यावसितं शूद्रं जपहोमपरायणम् ।
वधेन शासयेत्पापं दण्डयो वा द्विगुणं दमम् ॥४८६॥
सर्वेषु चापराधेषु पुंसो योर्थदमः स्मृतः ।
तदर्धं योषितो दद्युर्वधे पुंसोङ्ग कर्तनम् ॥४८७॥
नास्वतन्त्राः स्त्रियो ग्राह्याः पुमांस्तत्रापराध्यति ।
प्रभुणा शासनीयास्ता राजा तु पुरुषं नयेत् ॥४८८॥
प्रोषितस्वामिका नारी प्रापिता यद्यपि ग्रहे ।
तावत्सा बन्धने स्थाप्या यावत्प्रत्यागतः प्रभुः ॥४८९॥
कल्पितो यस्य यो दण्डस्त्वपराधस्य यत्नतः ।
पणानां ग्रहणं तु स्यात्तन्मूल्यं वाथ राजनि ॥४९०॥
माषपादो द्विपादो वा दण्डो यत्र प्रवर्तितः ।
अनिर्दिष्टं तु विज्ञेयं माषकं तु प्रकल्पयेत् ॥४९१॥

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481 स्मृतिच॰ III. p. 296, परा. मा. III. p. 206.
482 स्मृतिच॰ III. p. 297, परा. मा. III. p. 211 (read दण्डं तत्र).
483–484 परा. मा. III. p. 208. Verse 483 is मनु. 8. 380.
485 स्मृतिच॰ III. p. 298. परा. मा. III. p. 211 ascribes to पितामह.
486 स्मृतिच॰ III. p. 298; परा. मा. III. p. 212 ascribes to पितामह.
487 स्मृतिच॰ III. p. 745, व्य. म. p. 246.
488 स्मृतिच॰ III. p. 749.
489 स्मृतिच॰ III. p. 749.
490–492 स्मृतिच॰ III. p. 299. कुल्लूक on मनु. 8. 319 reads 491 (latter

यत्रोक्तो माषकैर्दण्डो राजतं तत्र निर्दिशेत् ।
कृष्णलैश्चोक्तमेव स्यादुक्तदण्डविनिश्चयः ॥४९२॥
माषो विंशतिभागस्तु ज्ञेयः कार्षापणस्य तु ।
काकणी तु चतुर्भागा माषकस्य पणस्य च ॥४९३॥
पञ्चनद्याः प्रदेशे तु संज्ञेयं व्यवहारिकी ।
कार्षापणोण्डिका ज्ञेयास्ताश्चतस्रस्तु धानकः ।
ते द्वादश सुवर्णास्तु(र्णस्तु?) दीनारश्चित्रकःस्मृतः॥४९४॥

(पुनर्न्यायः)

असत्सदिति यः पक्षः सभ्यैरेवावधार्यते ।
तीरितः सोनुशिष्टस्तु साक्षिवाक्यात्प्रकीर्तितः ॥४९५॥
कुलादिभिर्निश्चितेपि सन्तोषं न गतस्तु यः ।
विचार्य तत्कृतं राजा कुकृतं पुनरुद्धरेत् ॥४९६॥

(ऋणादाने वृद्धिविचारः)

न स्त्रीभ्यो दासबालेभ्यः प्रयच्छेत्क्वचिदुद्धृतम् ।
दाता न लभते तत्तु तेभ्यो दद्यात्तु यद्वसु ॥ ४९७ ॥
ऋणिकेन तु या वृद्धिरधिका संप्रकल्पिता ।
आपत्कालकृता नित्यं दातव्या कारिता तु सा ॥
अन्यथा कारिता वृद्धिर्न दातव्या कथंचन ॥ ४९८ ॥
एकान्तेनैव वृद्धिं तु शोधयेद्यत्र चर्णिकम् ।
प्रतिकालं ददात्येव शिखावृद्धिस्तु सा स्मृता ॥४९९॥
गृहात्तोषः फलं क्षेत्राद् भोगलाभः प्रकीर्तितः ॥५००॥

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half) as ' यन्निर्दिष्टं तु सौवर्णं माषं तत्र प्रकल्पयेत्.'

493–494 स्मृतिच० III. p. 231; वीर० p. 235 (only 493).

495 स्मृतिच० III. p. 302, परा. मा. III. p. 214 (सभ्यै राज्ञावधार्यते).

496 टोडरानन्द and वीर० p. 123 (both ascribe to बृहस्पति and कात्यायन).

497 स्मृतिच० III. p. 321, वि. र. p. 6 (reads किंचिदुद्धृतम्), परा. मा. III. p. 254 (reads क्वचिदुद्धृतः), वि. चि. p. 2.

498 स्मृतिच० III. p. 359, कुल्लूक (on मनु. 8. 153), वि. र. p. 10, वि. चि. p. 4, स. वि. p. 223.

499 स्मृतिच० III. p. 360, स. वि. p. 223, वीर० p. 295 (latter half).

500 स्मृतिच० III. p. 359, वीर० p. 295, which notices that अपरार्क read गृहात्स्तोमः शदः क्षेत्रात्. स्मृतिच० ascribes it to बृहस्पति and reads शदः क्षेत्रात्.

आधिभोगस्त्वशेषो यो वृद्धिस्तु परिकल्पितः।
प्रयोगो यत्र चैवं स्यादाधिभोगः स उच्यते ॥५०१॥

(अकृतवृद्धिः)

यो याचितकमादाय तमदत्त्वा दिशं व्रजेत्।
ऊर्ध्वं संवत्सरात्तस्य तद्धनं वृद्धिमाप्नुयात् ॥५०२॥
कृत्वोद्धारमदत्त्वा यो याचितस्तु दिशं व्रजेत्।
ऊर्ध्वं मासत्रयात्तस्य तद्धनं वृद्धिमाप्नुयात् ॥५०३॥
स्वदेशेपि स्थितो यस्तु न दद्याद्याचितः क्वचित्।
तं ततोकारितां वृद्धिमनिच्छन्तं च दापयेत् ॥५०४॥
प्रीतिदत्तं न वर्धेत यावन्न प्रतियाचितम्।
याच्यमानमदत्तं चेद्वर्धते पञ्चकं शतम् ॥५०५॥
निक्षिप्तं वृद्धिशेषं च क्रयविक्रयमेव च।
याच्यमानमदत्तं चेद्वर्धते पञ्चकं शतम् ॥५०६॥
पण्यं गृहीत्वा यो मूल्यमदत्त्वैव दिशं व्रजेत्।
ऋतुत्रयस्योपरिष्टात्तद्धनं वृद्धिमाप्नुयात् ॥५०७॥

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501 स्मृतिच॰ III. p. 360 (reads वृद्धिं तु), वि. र. p. 12, वि. चि. p. 4, वीर॰ p. 295.

502 मिता॰ (on या. II. 38), स्मृतिच॰ III. p. 364, परा. मा. III. p. 223, वि. र. p. 16 (reads ऋतुत्रयस्योपरिष्टात्), स. वि. p. 225, वीर॰ p. 301.

503 मिता on या. II. 38, अपरार्क p. 642 (reads ऋतुत्रयस्योपरिष्टात् for ऊर्ध्वं &c.), वि. र. p. 15, परा. मा. III. p. 223, वीर॰ p. 302.

504 मिता॰ on या. II. 38, अपरार्क p. 642 (reads याचितोऽसकृत् and स भर्त्राकारितो...च्छन्नपि चावहेत्), स्मृतिच॰ III. p. 364, वि. र. p. 16 (reads याचितोसकृत् and स तत्राकारितो...च्छन्नपि चावहेत्), स. वि. p. 225, वीर॰ p. 302.

505 स्मृतिच॰ III. p. 365, कुल्लूक (on मनु. 8.152), परा. मा. III. p. 223, वि. र. p. 15, स. वि. p. 226.

506 मिता॰ on या II. 66, परा. मा. III. p. 224, वि. र. p. 15, वीर॰ p. 302, वि. चि. p. 6.

507 स्मृतिच॰ III. p. 363, परा. मा. III. p. 224, वि. र. p. 15, स. वि. p. 225, वीर॰ p. 302.

चर्मसस्यासवद्यूते पण्यमूल्ये च सर्वदा।
स्त्रीशुल्केषु न वृद्धिः स्यात्प्रातिभाव्यागतेषु च ॥५०८॥

(वृद्धेः परिमाणं)

ग्राह्यं स्याद् द्विगुणं द्रव्यं प्रयुक्तं धनिनां सदा।
लभते चेन्न द्विगुणं पुनर्वृद्धिं प्रकल्पयेत् ॥५०९॥
मणिमुक्ताप्रवालानां सुवर्णरजतस्य च।
तिष्ठति द्विगुणा वृद्धिः फालकैटाविकस्य च ॥५१०॥
तैलानां चैव सर्वेषां मद्यानामथ सर्पिषाम्।
वृद्धिरष्टगुणा ज्ञेया गुडस्य लवणस्य च ॥५११॥
कुप्यं पञ्चगुणं भूमिस्तथैवाष्टगुणा मता।
सद्य एवेति वचनात् सद्य एव प्रदीयते ॥५१२॥

(ऋणोद्धरणं)

(अनेकर्णसमवाये विधिः)

एकाहे लिखितं यत्तु तत्तु कुर्याद्दणं समम्।
ग्रहणं रक्षणं लाभमन्यथा तु यथाक्रमम् ॥५१३॥
नानर्णसमवाये तु यद्यत्पूर्वकृतं भवेत् ॥
तत्तदेवाग्रतो देयं राज्ञः स्याच्छ्रोत्रियादनु ॥५१४॥
यस्य द्रव्येण यत्पण्यं साधितं यो विभावयेत्।
तद् द्रव्यमृणिकेनैव दातव्यं तस्य नान्यथा ॥५१५॥

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508 परा. मा. III. p. 225, स्मृतिच० III. p. 366, वि. र. p. 20, स. वि. p. 226, वीर० p. 304.

509 अपरार्क p. 643, वि. र. p. 72, वीर० p. 338.

510 वि. र. p. 17, स. वि. p. 228, वि. चि. p. 8, व्य. म. p. 170.

511 स्मृतिच० III. p. 373, परा. मा. III. p. 228, वि. र. p. 19, स. वि. p. 227, वीर० p. 299, व्य. म. p. 170.

512 स. वि. p. 230.

513 अपरार्क p. 645, स्मृतिच० III. p. 391, स. वि. p. 255, वीर० p. 339.

514 स्मृतिच० III. p. 390, स. वि. p. 255, वीर० p. 339.

515 अपरार्क p. 645, स्मृतिच० III. p. 391, परा. मा. III. p. 259, स. वि. p. 255, वीर० p. 340.

(आधिः)

द्रव्यं गृहीत्वा वृद्ध्यर्थं भोगयोग्यं ददाति चेत्।
जङ्गमं स्थावरं वापि भोग्याधिः स तु कथ्यते ॥
मूल्यं तदाधिकं दत्त्वा स्वक्षेत्रादिकमाप्नुयात् ॥५१६॥
आधिमेकं द्वयोर्यस्तु कुर्यात्का प्रतिपद्भवेत्।
तयोः पूर्वकृतं ग्राह्यं तत्कर्ता चोरदण्डभाक् ॥५१७॥
आधानं विक्रयो दानं लेख्यसाक्ष्यकृतं यदा।
एकक्रियाविरुद्धं तु लेख्यं तत्रापहारकम् ॥५१८॥
अनिर्दिष्टं च निर्दिष्टमेकत्र च विलेखितम्।
विशेषलिखितं ज्याय इति कात्यायनोऽब्रवीत् ॥५१९॥
यो विद्यमानं प्रथममनिर्दिष्टस्वरूपकम्।
आकाशभूतमादध्यादनिर्दिष्टं च तद्भवेत् ॥
यद्यत्तदास्य विधेत तत्रादिष्टं विनिर्दिशेत् ॥५२०॥
यस्तु सर्वस्वमादिश्य प्राक् पश्चान्नामचिह्नितम्।
आदध्यात्तत्कथं न स्याच्चिह्नितं बलवत्तरम् ॥५२१॥
मर्यादाचिह्नितं क्षेत्रं ग्रामं वापि यदा भवेत्।
ग्रामादयश्च लिख्यन्ते तदा सिद्धिमवाप्नुयात् ॥५२२॥

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516 स. वि. p. 234.

517 स्मृतिच० III. p. 337, परा. मा. III. p. 234 (reads द्वयोः कृत्वा यद्येका); वि. र. p. 35 (reads आधाता for तत्कर्ता), स. वि. p. 237 (reads कोऽत्र पतिर्भवेत्), वीर० p. 312.

518 स्मृतिच० III. p. 338, परा. मा. III. p. 234, स. वि. p. 237, वीर० p. 312, कृत्यकल्पतरु.

519 स्मृतिच० III. p. 338, परा. मा. III. p. 235 (reads अनिर्दिष्टाच्च निर्दिष्टं), स. वि. p. 237, वीर० p. 312, कृत्यकल्पतरु.

520 परा. मा. III. p. 235 (reads प्रथममनादिष्ट०, आकाशभूतमानेन), वीर० p. 313, स्मृतिच० III. p. 338 (reads अनादिष्ट०, °दध्यादादिष्टं नैव तद्भवेत्).

521 स्मृतिच० III. p. 338 (reads कथं तु स्यात्), स. वि. p. 238 (reads आदद्याच्चत् कथं तु स्यात्), वीर० p. 313.

522 स्मृतिच० III. p. 336, स. वि. p. 236.

आधीकृतं तु यत्किंचिद्विनष्टं दैवराजतः ।
तत्रर्णं सोदयं दाप्यो धनिनामधमर्णकः ॥५२३॥
न चेद्धनिकदोषेण निपतेद्वा म्रियेत वा ।
आधिमन्यं स दाप्यः स्याद्दणान्मुच्येत नर्णिकः॥५२४॥
अकाममननुज्ञातमाधिं यः कर्म कारयेत् ।
भोक्ता कर्मफलं दाप्यो वृद्धिं वा लभते न सः ॥५२५॥
यस्त्वाधिं कर्म कुर्वाणं वाचा दण्डेन कर्मभिः ।
पीडयेद्भर्त्सयेच्चैव प्राप्नुयात्पूर्वसाहसम् ॥५२६॥
बलादकामं यत्राधिमनिसृष्टं प्रवेशयेत् ।
प्राप्नुयात्साहसं पूर्वमाधाता चाधिमाप्नुयात् ॥५२७॥
आधिं दुष्टेन लेख्येन भुङ्क्ते यमृणिकाद्धनी ।
नृपो दमं दापयित्वा आधिलेख्यं विनाशयेत् ॥५२८॥
आधाता यत्र न स्यात्तु धनी बन्धं निवेदयेत् ।
राज्ञस्ततः स विख्यातो विक्रेय इति धारणा ॥
सवृद्धिकं गृहीत्वा तु शेषं राजन्यथार्पयेत् ॥५२९॥

(प्रतिभूविधानम्)

दानोपस्थानवादेषु विश्वासशपथाय च ।
लग्नकं कारयेदेवं यथायोगं विपर्यये ॥५३०॥

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523 स्मृतिच० III. p. 321, वि. र. p. 27.

524 स्मृतिच० III. p. 323 (reads निपतेद्विक्रियेत), वि. र. p. 26, स. वि. p. 236 (reads स चेद्धनिक० and सर्णिकः for नर्णिकः), वि. चि. p. 11, वीर० p. 309.

525 अपरार्क p. 659, स्मृतिच० III. p. 326, परा.मा.III. p. 238, वि. र.p. 24, स. वि. p. 235, वीर० 20 p. 308.

526 स्मृतिच० III. p. 326, परा. मा. III. p. 238, वि.र. p. 25, वीर० p. 308.

527 स्मृतिच० III. p. 326, स. वि. p. 235.

528 स्मृतिच० III. p. 329, स. वि. p. 24, वीर० p. 310.

529 अपरार्क p. 658, स्मृतिच० III. p. 333, परा. मा. III. p. 241, वि. र. p. 34 (reads यत्र नष्टः स्यात्), स. वि. p. 245, वि. चि. p. 11, वीर० p. 317.

530 अपरार्क p. 655 (reads °स्थानविश्वासविवादशपथाय), स्मृतिच० III. p. 347, परा. मा. III. p. 249, स. वि p. 247 (reads दासोपस्थान०), वीर० p. 323.

दर्शनप्रतिभूर्यस्तं देशे काले न दर्शयेत् ।
निबन्धमावहेत्तत्र दैवराजकृतादृते ॥५३१॥
नष्टस्यान्वेषणार्थं तु देयं पक्षत्रयं परम् ।
यद्यसौ दर्शयेत्तत्र मोक्तव्यः प्रतिभूर्भवेत् ॥५३२॥
काले व्यतीते प्रतिभूर्यदि तं नैव दर्शयेत् ।
स तमर्थं प्रदाप्यः स्यात् प्रेते चैवं विधीयते ॥५३३॥
गृहीत्वा बन्धकं यत्र दर्शनेस्य स्थितो भवेत् ।
विना पित्रा धनं तस्माद् दाप्यः स्यात्तदृणं सुतः॥५३४॥
यो यस्य प्रतिभूस्तिष्ठेद्दर्शनायेह मानवः ।
अदर्शयन्स तं तस्मै प्रयच्छेत्स्वधनादृणम् ॥५३५॥
आद्यौ तु वितथे दाप्यौ तत्कालावेदितं धनम् ।
उत्तरौ तु विसंवादे तौ विना तत्सुतौ तथा ॥५३६॥
एकच्छायाश्रिते सर्वं दद्यात्तु प्रोषिते सुतः ।
मृते पितरि पित्रंशं परर्णे न बृहस्पतिः ॥५३७॥

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531 अपरार्क p. 655, स्मृतिच० III. p. 349, वि. र. p. 41, वीर० p. 323, व्य. म. p. 176. स. वि. p. 247 and वीर० also at pp. 321-322 read देशे काले च दर्शयेत् and connect that half verse with यद्यसौ...भवेत् below.

532–533 मिता on या. II. 57, अपरार्क p. 656 (only 532), स्मृतिच० III. p. 348, वि. र. p. 42, स. वि. p. 248 (reads कालेऽयतीते and ऋणे चैवं विधिः), वीर० pp. 323 and 330, परा. मा. III. p. 24 (reads काले प्रतीते). स्मृतिच० and वीर० also at p. 323 reads काले प्रतीते.

534 मिता० on या. II. 54, अपरार्क p. 656 (reads यस्तु दर्शनस्य and विभाव्य वादिना तत्र दाप्यः), परा. मा. III. 251, वि. र. p. 43 (follows अपरार्क), वीर० p. 326. स्मृतिच० III. p. 353 (reads यस्तु दर्शनप्रतिभूः स्थितः विभाव्य वादिना तत्र).

535–536 वीर० p. 322 attributes to both कात्यायन and बृहस्पति. वीर० p. 325 attributes verse 536 to बृहस्पति. परा. मा. III. p. 250 and व्य. म. p. 176 attribute 536 to बृहस्पति.

537 स्मृतिच. III. p. 355, वीर० p. 327 (says that this is the reading of the स्मृतिच०).

एकच्छायाप्रविष्टानां दाप्यो यस्तत्र दृश्यते ।
प्रोषिते तत्सुतः सर्वं पित्र्यंशं तु मृते सुतः ॥५३८॥
प्रातिभाव्यं तु यो दद्यात् पीडितः प्रतिभावितः ।
त्रिपक्षात्परतः सोऽर्थं द्विगुणं लब्धुमर्हति ॥५३९॥
यस्यार्थे येन यद्दत्तं विधिनाभ्यर्थितेन तु ।
साक्षिभिर्भावितेनैव प्रतिभूस्तत्समाप्नुयात् ॥५४०॥
सत्यंकारविसंवादे द्विगुणं प्रतिदापयेत् ।
अकुर्वतस्तु तद्धानिः सत्यंकारप्रयोजनम् ॥५४१॥

(पित्रादिभिः कृतमृणं केन प्रतिदेयम्)

कुटुम्बार्थमशक्तेन गृहीतं व्याधितेन वा ।
उपप्लवनिमित्ते च विद्यादापत्कृते तु तत् ॥५४२॥
कन्यावैवाहिकं चैव प्रेतकार्ये च यत्कृतम् ।
एतत्सर्वं प्रदातव्यं कुटुम्बेन कृतं प्रभोः ॥५४३॥
ऋणं पुत्रकृतं पित्रा न देयमिति धर्मतः ।
देयं प्रतिश्रुतं यत्स्यात् यच्च स्यादनुमोदितम् ॥५४४॥
प्रोषितस्यामतेनापि कुटुम्बार्थमृणं कृतम् ।
दासस्त्रीमातृशिष्यैर्वा दद्यात्पुत्रेण वा भृगुः ॥५४५॥

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538 मिता० on या. II 55 (reads मृते समम्), परा. मा. III. p. 251, वि. र. p. 52 (reads पित्रंशर्णं मृतस्य च), स. वि. p. 250, वीर० p. 327 (पित्र्यमंशं मृते तु सः).

539 अपरार्क p 657, स्मृतिच० III. p 357, परा. मा. III. p. 252 (reads दण्डितः for पीडितः), वि. र. p. 45, वीर० p. 328 (ascribes to both कात्यायन and बृह०).

540 अपरार्क p 657, स्मृतिच० III. p. 356 (reads विवादेभ्यार्थितेन), वि. र. p. 46 (°भ्यर्दितेन), वीर० p. 328.

541 विश्वरूप on या. II. 63.

542–543 अपरार्क p. 647, स्मृतिच० III. p. 408 (reads अशक्ते तु, व्याधितेथवा); परा मा. III. p. 268, वि. र. p. 56, वीर० p. 352, स. वि. p. 253 (changes the order of the lines).

544 स्मृतिच० III. pp 408-409, वीर० p. 353, स. वि. p. 263 (latter half), वि. र. p. 57 (reads स्यादनुवर्णितम्).

545 अपरार्क p. 648 (reads दासस्त्र्यमात्य०), स्मृतिच० III. p. 407, परा. मा. III. p. 268 (reads दद्यात्पुत्रेण वा पिता), वि. र. p. 56, स. वि. p. 263.

भर्त्रा पुत्रेण वा सार्धं केवलेनात्मना कृतम् ।
ऋणमेवंविधं देयं नान्यथा तत्कृतं स्त्रिया ॥५४६॥
मर्तुकामेन या भर्त्रा प्रोक्ता देयमृणं त्वया ।
अप्रपन्नापि सा दाप्या धनं यद्याश्रितं स्त्रियाम् ॥५४७
विद्यमानेपि रोगार्ते स्वदेशात्प्रोषितेपि वा ।
विंशात्संवत्सराद्देयं ऋणं पितृकृतं सुतैः ॥ ५४८ ॥
व्याधितोन्मत्तवृद्धानां तथा दीर्घप्रवासिनाम् ।
ऋणमेवंविधं पुत्रान् जीवतामपि दापयेत् ॥ ५४९ ॥
सांनिध्येपि पितुः पुत्रैर्ऋणं देयं विभावितम् ।
जात्यन्धपतितोन्मत्तक्षयश्वित्रादिरोगिणः ॥ ५५० ॥
पितॄणां सूनुभिर्जातैर्दानेनैवाधमाद्दणात् ।
विमोक्षस्तु यतस्तस्मादिच्छन्ति पितरः सुतान् ॥५५१॥
नाप्राप्तव्यवहारेण पितर्युपरते क्वचित् ।
काले तु विधिना देयं वसेयुर्नरकेन्यथा ॥ ५५२ ॥
अप्राप्तव्यवहारश्चेत्स्वतन्त्रोपीह नर्णभाक् ।
स्वातन्त्र्यं हि स्मृतं ज्येष्ठे ज्यैष्ठे (ष्ठ्यं?) गुणवयःकृतम् ॥५५३॥
यद्दृष्टं दत्तशेषं वा देयं पैतामहं तु तत् ।
सदोषं व्याहतं पित्रा नैव देयमृणं क्वचित् ॥ ५५४ ॥

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546 अपरार्क p. 649, स्मृतिच० III. p. 411, वि. र. p. 60, वीर० p. 353.

547 स्मृतिच० III. p. 412, परा. मा. III. p. 270 (धनं दद्यात्सुतो यथा), स. वि. p. 263, वीर० p. 354.

548 अपरार्क p. 650, स्मृतिच० III. p. 394, परा. मा. III. p. 263, स. वि. p. 256, वीर० p. 342.

549 अपरार्क p. 650, वि. र. p. 51.

550 अपरार्क p. 650, वि. र. p. 51, परा. मा. III. p. 263, वि. चि. p. 16, स्मृतिच० III. p. 394. All except अपरार्क ascribe to बृहस्पति.

551 स्मृतिच० III. p 393, परा. मा. III. p. 263, वीर० p. 341.

552 अपरार्क p. 650, स्मृतिच० III. p. 393 (reads °व्यवहारैस्तु), वि. र. p. 54 (°व्यवहारैस्तु), परा. मा. III. p. 263.

553 स्मृतिच० III. p. 393 (first half), वीर० pp.340-341.

554 अपरार्क p. 650, स्मृतिच० III. p. 398 (reads यद्दणं दत्तशेषं), वि. र. p. 48, वि. चि. p. 16.

पित्रा दृष्टमृणं यत्तु क्रमायातं पितामहात् ।
निर्दोषं नोद्धृतं पुत्रैर्देयं पौत्रैस्तु तद्भृगुः ॥ ५५५ ॥
पैतामहं तु यत्पुत्रैर्न दत्तं रोगिभिः स्थितैः ।
तस्मादेवंविधं पौत्रैर्देयं पैतामहं समम् ॥ ५५६ ॥
ऋणं तु दापयेत्पुत्रं यदि स्यान्निरुपद्रवः ।
द्रविणार्हश्च धुर्यश्च नान्यथा दापयेत्सुतम् ॥५५७॥
यद्देयं पितृभिर्नित्यं तदभावे तु तद्धनात् ।
तद्धनं पुत्रपुत्रैर्वा देयं तत्स्वामिने तदा ॥ ५५८ ॥
पित्रर्णे विद्यमाने तु न च पुत्रो धनं हरेत् ।
देयं तद्धनिके द्रव्यं मृते गृह्णंस्तु दाप्यते ॥५५९॥
पुत्राभावे तु दातव्यमृणं पौत्रेण यत्नतः ।
चतुर्थेन न दातव्यं तस्मात्तद्धि निवर्तते ॥५६०॥
प्रातिभाव्यागतं पौत्रैर्दातव्यं न तु तत्क्वचित् ।
पुत्रेणापि समं देयमृणं सर्वत्र पैतृकम् ॥५६१॥
रिक्थहर्त्रा ऋणं देयं तदभावे च योषितः ।
पुत्रैश्च तदभावेन्यै रिक्थभाग्भिर्यथाक्रमम् ॥५६२॥
यावन्न पैतृकं द्रव्यं विद्यमानं लभेत्सुतः ।
सुसमृद्धोपि दाप्यः स्यात्तावन्नैवाधमर्णिकः ॥५६३॥

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555 अपरार्क p. 651, स्मृतिच० III. p. 397, वि. र. p. 48, स. वि. p. 258

556 स्मृतिच० III. p. 398, वि. र. p. 48.

557 अपरार्क p. 651, स्मृतिच० III. p. 394, परा. मा. III. p. 263, वि. र. p. 63, वीर० p. 351.

558 स. वि. p. 258.

559 स्मृतिच० III. p. 395, परा. मा. III. p. 264, वीर० p. 344 (reads पुत्रैस्तु दाप्यते).

560 स्मृतिच० III. p. 399 (तस्मात्ताद्धि निवर्तते), परा. मा. III. p. 264, वि. र. p, 49 (reads पित्र्यभावे and चतुर्थेन यदा दत्तं), वीर० p. 342 (reads पित्रभावे तु).

561 अपरार्क p. 656, वि. र. p. 44.

562–563 विश्वरूप on या. II. 47.

लिखितं मुक्तकं वापि देयं यत्तु प्रतिश्रुतम् ।
परपूर्वस्त्रियै यत्तु विद्यात्कामकृतं नृणाम् ॥५६४॥
यत्र हिंसां समुत्पाद्य क्रोधाद् द्रव्यं विनाश्य वा ।
उक्तं तुष्टिकरं यत्तु विद्यात्क्रोधकृतं तु तत् ॥५६५॥
स्वस्थेनार्तेन वा देयं भावितं धर्मकारणात् ।
अदत्त्वा तु मृते दाप्यस्तत्सुतो नात्र संशयः ॥५६६॥
निर्धनैरनपत्यैस्तु यत्कृतं शौण्डिकादिभिः ।
तत्स्त्रीणामुपभोक्ता तु दद्यात्तदृणमेव हि ॥५६७॥
शौण्डिकव्याधजनकगोपनाविकयोषिताम् ।
आधिष्ठाता ऋणं दाप्यस्तासां भर्तृक्रियासु तत् ॥५६८॥
न च भार्याकृतमृणं कथंचित्पत्युराभवेत् ।
आपत्कृतादृते पुंसां कुटुम्बार्थे हि विस्तरः ॥५६९॥
अन्यत्र रजकव्याधगोपशौण्डिकयोषिताम् ।
तेषां तु तत्परा वृत्तिः कुटुम्बं च तदाश्रयम् ॥५७०॥
अमतेनैव पुत्रस्य प्रधना यान्यमाश्रयेत् ।
पुत्रेणैवापहार्यं तद्धनं दुहितृभिर्विना ॥५७१॥
ऋणार्थमाहरेत्तन्तुं न सुखार्थं कदाचन ।
अयुक्ते कारणे यस्मात्पितरौ तु न दापयेत् ॥ ५७२ ॥
या स्वपुत्रं तु जह्यात्स्त्री समर्थमपि पुत्रिणी ।
आहृत्य स्त्रीधनं तत्र पित्र्यर्णं शोधयेन्मनुः ॥ ५७३ ॥
बालपुत्राधिकार्था च भर्तारं यान्यमाश्रिता ।
आश्रितस्तदृणं दद्याद्बालपुत्राविधिः स्मृतः ॥ ५७४ ॥

564–565 अपरार्के p. 648. स्मृतिच० III. p. 396, परा. मा. III. p. 266 वि. र. p. 58, वि. चि. p. 17, स. वि. p. 257, वीर० pp. 343-344.
566 विवादचन्द्र, विं. चि. p. 16, (reads सुस्थेन), व्य. म. p. 206.
567 अपरार्के p. 652, वि. र. p. 62., व्य. म. p. 187, वि. चि. p. 19.
568 वीर० p. 354.
569–570 वीर० p. 354. वि. चि p. 19 ascribes these two to नारद. अपरार्क (p 649) also does so.
571–573 वि. र. p. 65.
574 अपरार्क p 654, स्मृतिच० III. p. 406 (reads त्रातारं यान्य०), परा. मा. III. p. 275 (reads भ्रातरं या०), स. वि. p. 263 (reads पुत्रादिकर्ता च त्रातारं and बालपुत्रादिविश्रुतम्), वीर० p. 355, वि. र. p. 66.

दीर्घप्रवासिनिर्बन्धुजडोन्मत्तार्तलिङ्गिनाम् ।
जीवतामपि दातव्यं तत्स्त्रीद्रव्यसमाश्रितैः ॥ ५७५ ॥
व्यसनाभिप्लुते पुत्रे बालो वा यत्र दृश्यते ।
द्रव्यहृद्दाप्येत तत्र तस्याभावे पुरन्ध्रिहृत् ॥ ५७६ ॥
पूर्वं दद्याद्धनग्राहः पुत्रस्तस्मादनन्तरम् ।
योषिद्ग्राहः सुताभावे पुत्रो वात्यन्तनिर्धनः ॥ ५७७ ॥
देयं भार्याकृतमृणं भर्त्रा पुत्रेण मातृकम् ।
भर्तुरर्थे कृतं यत्स्यादभिधाय गते दिशम् ॥ ५७८ ॥
देयं पुत्रकृतं तत्स्याद्यच्च स्यादनुवर्णितम् ।
कृतासंवादितं यच्च श्रुत्वा चैवानुचोदितम् ॥ ५७९ ॥

(अधमर्णिकस्यावरोधादिना धनोद्धारविचारः)

धार्योऽवरुद्धस्त्वृणिकः प्रकाशं जनसंसदि ।
यावन्न दद्याद्देयं च देशाचारस्थितिर्यथा ॥ ५८० ॥
विण्मूत्रशङ्का यस्य स्याद्धार्यमाणस्य देहिनः ।
पृष्ठतो वानुगन्तव्यो निबद्धं वा समुत्सृजेत् ॥ ५८१ ॥
स कृतप्रतिभूश्चैव मोक्तव्यः स्याद्दिने दिने ।
आहारकाले रात्रौ च निबन्धे प्रतिभूः स्थितः ॥५८२॥
यो दर्शनप्रतिभुवं नाधिगच्छेन्न चाश्रयेत् ।
स चारके निरोद्धव्यः स्थाप्यो वावेद्य रक्षिणः ॥५८३॥
न चारके निरोद्धव्य आर्यः प्रात्ययिकः शुचिः ।
सोनिबद्धः प्रमोक्तव्यो निबद्धः शपथेन वा ॥ ५८४ ॥

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575 अपरार्क p. 654 (reads °द्रव्यं समाश्रितैः), वि. र. p. 66, वि. चि. p. 20.

576 स्मृतिच॰ III. p. 402, वि. र. p. 64 and वि. चि. p. 18 (read बाले), वीर॰ p. 351 (reads बाले वा यत्प्रदृश्यते).

577 स्मृतिच॰ III. p. 403, वीर॰ p. 351.

578–579 स्मृतिच॰ III. p. 407, वीर॰ p. 353 (reads अविधाय and has 578 only), वि. र. p. 59 (has only 578 and reads भक्तस्यार्थे).

580 स्मृतिच॰ III. p. 384, वि. र. p. 67, व्य. म. p. 179, वीर॰ p. 334.

581 स्मृतिच॰ III. p. 384, वि. र. p. 69 (reads संज्ञा for शङ्का and निबन्धं), व्य. म. p. 179 (reads निबन्धं), वीर॰ p. 334.

582–584 स्मृतिच॰ III. p. 385, वीर॰ pp. 334-335 (reads वारके in 583-584), वि. र. p. 69 (reads सोनिरुद्धः and निरुद्धः शपथेन).

पीडनेनोपरोधेन साधयेद्दणिकं धनी ।
कर्मणा व्यवहारेण सान्त्वेनादौ विभावितः ॥ ५८५ ॥
आददीतार्थमेवं तु व्याजेनाचरितेन च ।
कर्मणा क्षत्रविट्शूद्रान् समहीनांश्च दापयेत् ॥५८६॥
राजानं स्वामिनं विप्रं सान्त्वेनैव प्रदापयेत् ।
रिक्थिनं सुहृदं वापि च्छलेनैव प्रसाधयेत् ॥ ५८७
वणिजः कर्षकांश्चैव शिल्पिनश्चाप्रवर्द्धिगुः ।
देशाचारेण दाप्याः स्युर्दुष्टान् संपीड्य दापयेत् ॥५८८॥
पीडयेत्तु धनी यत्र ऋणिकं न्यायवादिनम् ।
तस्मादर्थात्स हीयेत तत्समं चाप्नुयाद्दमम् ॥ ५८९ ॥
यदि ह्यादावनादिष्टमशुभं कर्म कारयेत् ।
प्राप्नुयात्साहसं पूर्वमृणान्मुच्येत चर्णिकः ॥ ५९० ॥
उद्धारादिकमादाय स्वामिने न ददाति यः ।
स तस्य दासो भृत्यः स्त्री पशुर्वा जायते गृहे ॥ ५९१ ॥

(उपनिधिः)

क्रय-प्रोषित-निक्षिप्त-बन्धान्वाहितयाचितम् ।
वैश्यवृत्त्यर्पितं चैव सोऽर्थस्तूपनिधिः स्मृतः ॥ ५९२॥
निक्षिप्तं यस्य यत्किंचित्तत्प्रयत्नेन पालयेत् ।
दैवराजकृतादन्यो विनाशस्तस्य कीर्त्यते ॥ ५९३॥

585-586 वि. र. pp. 68 and 71, वीर० p. 333 (reads विभावितं and कर्षकान् क्षत्र०) remarks that कल्पतरु read कर्मणा क्षत्र०.

587-588 स्मृतिच० III. p. 384, वि. र. p. 69, वीर० pp. 333-334, वि. चि. p. 21, अपरार्क p. 645 (has 587 and latter half of 588 and reads राजा तु and छलेन न च दापयेत्).

589 मिता० on या. II. 40, स्मृतिच० III. p. 388, अपरार्क p 645, परा. मा. III. p. 258, वीर० p. 336.

590 वि. र. p. 71, वीर० p. 339, अपरार्क p. 647.

591 स्मृतिच० III. p. 376, परा. मा III. p. 261, व्य. म. p. 184, वीर० p. 357.

592 अपरार्क p. 662, स्मृतिच० III. p 5. वि. र. p. 84 (reads क्रयःप्रोषितनिक्षिप्तो), वि. चि. p. 26.

593 स्मृतिच० III. 419, वीर० p. 364.

यस्य दोषेण यत्किंचिद्विनाश्येत ह्रियेत वा।
तद् द्रव्यं सोदयं दाप्यो दैवराजकृताद्विना ॥ ५९४॥
याचितानन्तरं नाशे दैवराजकृतेपि सः।
ग्रहीता प्रतिदाप्यः स्यान्मूल्यमात्रं न संशयः ॥५९५॥
न्यासादिकं परद्रव्यं प्रभक्षितमुपेक्षितम्।
अज्ञाननाशितं चैव येन दाप्यः स एव तत् ॥ ५९६ ॥
भक्षितं सोदयं दाप्यः समं दाप्य उपेक्षितम्।
किंचिन्न्यूनं प्रदाप्यः स्याद् द्रव्यमज्ञाननाशितम् ॥५९७॥
अराजदैविकेनापि निक्षिप्तं यत्र नाशितम्।
ग्रहीतुः सह भाण्डेन दातुर्नष्टं तदुच्यते ॥ ५९८ ॥
ज्ञात्वा द्रव्यवियोगं तु दाता यत्र विनिक्षिपेत्।
सर्वोपायविनाशेपि ग्रहीता नैव दाप्यते ॥ ५९९ ॥
ग्राहकस्य हि यद्दोषान्नष्टं तु ग्राहकस्य तत्।
तस्मिन्नष्टे हृते वापि ग्रहीता मूल्यमाहरेत् ॥ ६०० ॥
ग्राह्यस्तूपनिधिः काले कालहीनं तु वर्जयेत्।
कालहीनं ददद्दण्डं द्विगुणं च प्रदाप्यते ॥ ६०१ ॥

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594 अपरार्क p. 663, स्मृतिच० III. p. 419, वि. र. p. 89, त्रि. चि. p. 24, वीर० p. 364.

595 स्मृतिच० III. p. 420 (has not the words मूल्य ...संशयः), वीर० p. 364 (attributes to व्यास).

596 स्मृतिच० III. p. 420, परा. मा. III. p. 283, वीर० p. 364, वि. र. p. 99, वि. चि. 26.

597 मिता० on या. II. 67, वीर० p. 364 (attributes to व्यास and कात्यायन), परा. मा. III. p. 283 (ascribes to व्यास).

598 अपरार्क p. 663, स्मृतिच० III. p. 417, परा. मा. III. p. 282, वि. र. p. 88, वीर० p. 363 (reads राजदैविकचौरैर्वा निक्षिप्तं).

599 स्मृतिच० III. p. 418, परा. मा. III. p. 283, वि. र. 89 (read सर्वापाय०), वीर० p. 363.

600 वि. र. p. 89, वि. चि. p. 24 (first half); वि. र. p. 89 has first half.

601 अपरार्क p. 663, स्मृतिच० III. p. 422, परा. मा. III. 286, वि. र. p. 93 (reads कालहीने), वीर० p. 367.

सर्वेषूपनिधिष्वेते विधयः परिकीर्तिताः ॥ ६०२ ॥
यैश्च संस्क्रियते न्यासो दिवसैः परिनिश्चितैः ।
तदूर्ध्वं स्थापयेच्छिल्पी दाप्यो दैवहतेपि तत् ॥६०३॥
न्यासदोषाद्विनाशः स्याच्छिल्पिनं तत्र दापयेत् ।
दापयेच्छिल्पिदोषात्तत्संस्कारार्थं यदर्पितम् ॥ ६०४ ॥
स्वल्पेनापि च यत्कर्म नष्टं चेद्भृतकस्य तत् ।
पर्याप्तं दित्सतस्तस्य विनश्येत्तदगृह्णतः ॥ ६०५ ॥
यदि तत्कार्यमुद्दिश्य कालं परिनियम्य वा ।
याचितोर्धकृते तस्मिन्नप्राप्ते न तु दाप्यते ॥ ६०६ ॥
प्राप्तकाले कृते कार्ये न दद्याद्याचितोपि सन् ।
तस्मिन्नष्टे हृते वापि ग्रहीता मूल्यमाहरेत् ॥ ६०७ ॥
याच्यमानो न दद्याद्वा दाप्यस्तत्सोदयं भवेत् ।
अथ कार्यविपत्तिस्तु तस्यैव स्वामिनो भवेत् ।
अप्राप्ते वै स काले तु दाप्यस्त्वर्धकृतेपि तत् ॥ ६०९॥
यो याचितकमादाय न दद्यात्प्रतियाचितः ।
स निगृह्य बलाद्दाप्यो दण्ड्यश्च न ददाति यः ॥ ६१०॥

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602 वि. र. p. 92.

603-604 स्मृतिच० III. p 426, परा. मा. III. p. 288, वि. र. p. 98 (reads परिनिष्ठितैः), व्य. म. p. 193 (has only 603 and reads परिनिष्ठितैः and दैवाद्धतेपि तं), वीर० p. 370 (तदूर्ध्वं स्थापयन् शिल्पी and दैवाद्धतेपि तम्).

605 स्मृतिच० III. p. 427, परा. मा. III. p. 289 (reads शिल्पेनापि) वीर० p. 370 (ascribes to मनु and कात्यायन), वि. र. p. 98.

606 स्मृतिच० III. p. 427, परा. मा. III. p 289, वि. र. p. 93, वीर० p. 371.

607 स्मृतिच० III. p. 428, परा. मा. p. III. p. 290 (reads तस्मिन्नष्टे मृते), वि. चि. p. 24, वीर० p. 371.

608 स्मृतिच० III. p. 427.

609 स्मृतिच० III. p 428, परा. मा. III. p. 290, वि. र. p. 93 (reads स्वकाले), वीर० p. 372.

610 अपरार्क p 664 (reads last pāda as दण्डेन च ददाति यः), स्मृतिच० III. p. 429, वि. र. p. 92, वीर० p. 372.

अनुमार्गेण कार्येषु अन्यस्मिन्वचनान्मम ।
दद्यास्त्वमिति यो दत्तः स इहान्वाधिरुच्यते ॥ ६११ ॥

(अस्वामिविक्रयः)

अस्वामिविक्रयं दानमाधिं च विनिवर्तयेत् ॥ ६१२॥
अभियोक्ता धनं कुर्यात्प्रथमं ज्ञातिभिः स्वकम् ।
पश्चादात्मविशुध्यर्थं क्रयं क्रेता स्वबन्धुभिः ॥६१३॥
नाष्टिकस्तु प्रकुर्वीत तद्धनं ज्ञातृभिः स्वकम् ।
अदत्तत्यक्तविक्रीतं कृत्वा स्वं लभते धनम् ॥६१४॥
प्रकाशं वा क्रयं कुर्यान्मूलं वापि समर्पयेत् ।
मूलानयनकालस्तु देयो योजनसंख्यया ॥६१५॥
प्रकाशं च क्रयं कुर्यात्साधुभिर्ज्ञातिभिः स्वकैः ॥
न तत्रान्या क्रिया प्रोक्ता दैविकी न च मानुषी ॥६१६॥
यदा मूलमुपन्यस्य पुनर्वादी क्रयं वदेत् ।
आहरेन्मूलमेवासौ न क्रयेण प्रयोजनम् ॥६१७॥
असमाहार्यमूलस्तु क्रयमेव विशोधयेत् ।
विशोधिते क्रये राज्ञा न वक्तव्यः स किंचन ॥६१८॥

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611 वि. र. p. 84.

612 मिता. on या. II. 168 (no name), स्मृतिच० III. p. 499, परा. मा. III. p. 291, वि. र. p. 104, स. वि. p. 305.

613 अपरार्क p. 777, स्मृतिच० III. p. 501 (first half), परा. मा. III. p. 300, वि. र. p. 106, वीर० p. 376 (first half).

614 अपरार्क p. 777 (reads अदत्तं त्यक्त०), स्मृतिच० III. p. 502, परा. मा. III. p. 294 (first half and reads ज्ञातृभिः), वि. र. p. 104, स. वि. p. 306, वीर० p. 378.

615 मिता. on या. II. 170 (cites without author's name and reads देयस्तत्राध्वसंख्यया), अपरार्क p. 776 (reads मूल्यं वापि), वि र. p. 101, व्य. म. p. 196 (latter half).

616 अपरार्क p 777, स्मृतिच० III. p. 503, परा. मा. III. p. 296 (reads साक्षिभिर्ज्ञातिभिः), वि. र. p. 106.

617 अपरार्क p. 776 (reads पूर्ववादी), स्मृतिच० III. p. 504, परा. मा. III. p. 297 (reads पूर्ववादी), वि. र. 101, वीर० p. 381.

618 अपरार्क p. 777 (without author's name), मिता. on या. II. 170 (first half without author's name), वि. र. p. 106, स्मृतिच० III. p. 504 (first half).

अनुपस्थापयन्मूलं क्रयं वाप्यविशोधयन् ।
यथाभियोगं धनिने धनं दाप्यो दमं च सः ॥६१९॥
यदि स्वं नैव कुरुते ज्ञातिभिर्नाष्टिको धनम् ।
प्रसङ्गविनिवृत्त्यर्थं चोरवद्दण्डमर्हति ॥६२०॥
वणिग्वीथीपरिगतं विज्ञातं राजपूरुषैः ।
अविज्ञाताश्रयात्क्रीतं विक्रेता यत्र वा मृतः ॥६२१॥
स्वामी दत्वार्धमूल्यं तु प्रगृह्णीत स्वकं धनम् ।
अर्धं द्वयोरपहृतं तत्र स्याद्व्यवहारतः ॥६२२॥
अविज्ञातक्रयो दोषस्तथा चापरिपालनम् ।
एतद्द्वयं समाख्यातं द्रव्यहानिकरं बुधैः ॥६२३॥

(सम्भूयसमुत्थानम्)

समवेतास्तु ये केचिच्छिल्पिनो वणिजोपि वा ।
अविभज्य पृथग्भूतैः प्राप्तं तत्र फलं समम् ॥६२४॥ ॥
भाण्डपिण्डव्ययोद्धारभारसारार्थवीक्षणम् ।
कुर्युस्तेऽव्यभिचारेण समयेन व्यवस्थिताः ॥६२५॥
प्रयोगं कुर्वते ये तु हेमधान्यरसादिना ।
समन्यूनाधिकैरंशैर्लाभस्तेषां तथाविधः ॥६२६॥
बहूनां संमतो यस्तु दद्यादेको धनं नरः ।
ऋणं च कारयेद्वापि सर्वैरेव कृतं भवेत् ॥६२७॥

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619 मिता० on या. II. 170 (cites as मनु's), वीर० p, 381, वि. र. p. 108, व्य. म. p. 197, स्मृतिच० III p. 504, परा. मा. III. p. 297. All these except the मिता० ascribe to कात्या०.

620 अपरार्क 777 (ज्ञातृभिः for ज्ञातिभिः), स्मृतिच० III. p. 505, वि. र. p. 105, परा. मा. III. p. 297.

621–623 स्मृतिच० III. pp 507, 508, परा. मा. III. pp. 297 and 300, वीर० p. 380. अपरार्क p. 775 ascribes these to बृहस्पति; the व्य. म. p. 197 and कुल्लूक on मनु. 8. 202 ascribe 621-622 to बृहस्पति.

624–625 अपरार्क p. 832. स्मृतिच० III. p. 431 and परा. मा. III. p. 304 ascribes 625 to नारद.

626–630 अपरार्क p 832–833. All are ascribed to बृहस्पति in वि. र. p. 123; स्मृतिच० ascribes 626, 627, 630 to बृहस्पति; स. वि. p.

ज्ञातिसंबन्धिसुहृदामृणं देयं सबन्धकम् ।
अन्येषां लग्नकोपेतं लेख्यसाक्षियुतं तथा ॥६५८॥
स्वेच्छादेयं हिरण्यं तु रसा धान्यं च सावधि ।
देशस्थित्या प्रदातव्यं ग्रहीतव्यं तथैव च ॥६२९॥
समवेतैस्तु यद्दत्तं प्रार्थनीयं तथैव तत् ।
न च याचेत यः कश्चिल्लाभात्स परिहीयते ॥६३०॥
चोरतः सलिलादग्नेर्द्रव्यं यस्तु समाहरेत् ।
तस्यांशो दशमो देयः सर्ववादेष्वयं विधिः ॥६३१॥
शिक्षकाभिज्ञकुशला आचार्यश्चेति शिल्पिनः ।
एकद्वित्रिचतुर्भागान्हरेयुस्ते यथोत्तरम् ॥६३२॥
परराष्ट्राद्धनं यत्स्याच्चौरैः स्वाम्याज्ञयाहृतम् ।
राज्ञो दशांशमुद्धृत्य विभजेरन्यथाविधि ॥६३३॥
चोराणां मुख्यभूतस्तु चतुरोंशांस्ततो हरेत् ।
शूरोंशांस्त्रीन् समर्थो द्वौ शेषास्त्वेकैकमेव च ॥६३४॥
तेषां चेत्प्रसृतानां यो ग्रहणं समवाप्नुयात् ।
तन्मोक्षणार्थं यद्दत्तं वहेयुस्ते यथांशतः ॥६३५॥
नर्तकानामेष एव धर्मः सद्भिरुदाहृतः ।
तालज्ञो लभते त्व्यर्धं गायनास्तु समांशिनः ।
प्रमुखा द्व्यंशमर्हन्ति सोयं संभूय कुर्वताम् ॥६३६॥

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272 has 627 but cites no name; व्य. म. p. 200 ascribes 627 to बृहस्पति. परा. मा. III. p. 306 ascribes 627 and 630 to बृहस्पति.

631 स्मृतिच० III. p. 433, परा. मा. III. p. 305, वि. र. p.114 (सर्वद्रव्येष्वयं), स वि. p. 273.

632 अपरार्क p. 838, स्मृतिच० III. p. 435, परा. मा. III. p 310 (reads शिल्पाकरज्ञकुशला and यथांशतः), वि. र. p. 124, स. वि. p. 273, वीर० p. 390.

633–34 परा. मा. III. p. 311, स्मृतिच० III. p. 440, वि. र. pp 125–126, वीर० p. 391, स. वि. p 276 (only verse 633).

635 स्मृतिच० III. p. 441, परा. मा. III. p. 311, स. वि. p. 276, व्य. म. p. 200, वीर० p. 391, वि. र. p 126 (reads तस्य कार्या समा क्रिया).

636 परा. मा. III. p. 312, अपरार्के ascribes first two half lines to बृहस्पति and so do वि. र. p. 125, वीर० p. 391, स. वि. p. 276.

वणिजां कर्षकाणां च चोराणां शिल्पिनां तथा।
अनियम्यांशकर्तॄणां सर्वेषामेष निर्णयः ॥६३७॥

(दत्तानपाकर्म दत्ताप्रदानिकं वा)

विक्रयं चैव दानं च न नेयाः स्युरनिच्छवः।
दाराः पुत्राश्च सर्वस्वमात्मनैव तु योजयेत् ॥६३८॥
आपत्काले तु कर्तव्यं दानं विक्रय एव वा।
अन्यथा न प्रवर्तेत इति शास्त्रविनिश्चयः ॥६३९॥
सर्वस्वगृहवर्जं तु कुटुम्बभरणाधिकम्।
यद्द्रव्यं तत्स्वकं देयमदेयं स्यादतोन्यथा ॥६४०॥
अतश्च सुतदाराणां वशित्वं त्वनुशासने।
विक्रये चैव दाने च वशित्वं न सुते पितुः॥६४१॥
स्वेच्छया यः प्रतिश्रुत्य ब्राह्मणाय प्रतिग्रहम्।
न दद्यादृणवद्दाप्यः प्राप्नुयात्पूर्वसाहसम् ॥६४२॥
प्रतिश्रुतस्यादानेन दत्तस्याच्छादनेन च।
कल्पकोटिशतं मर्त्यस्तिर्यग्योनौ च जायते ॥६४३॥
अविज्ञातोपलब्ध्यर्थं दानं यत्र निरूपितम्।
उपलब्धिक्रियालब्धं सा भृतिः परिकीर्तिता ॥६४४॥

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637 परा. मा. III, p 312, वि. र. p. 126, व्य. म. p. 201, वीर० p. 391, स्मृतिच० III. p. 441.

638–639 अपरार्क p. 779, परा. मा. III. p. 315 (आत्मन्येव), वि. र. p 128, and वि. चि. p. 36 (both read आत्मन्येव), स्मृतिच० III pp. 445-446.

640 स्मृतिच० III. p. 445, परा. मा. III. p. 214, वि. र. p. 129, वि. चि. p. 37, स. वि. p, 283, वीर० p. 395. All except स्मृतिच० read सर्वस्वं गृहवर्जं.

641 परा. मा. III. p. 315, स्मृतिच० III. p. 445 (as स्मृत्यन्तर).

642 स्मृतिच० III. p. 449, वि. र. p 132, व्य. म. p. 203, वीर० p. 397 स. वि. p. 285.

943 स. वि. p. 285; वि. र. p. 132 ascribes a closely similar verse to हारीत.

644 स्मृतिच० III. p. 449, अपरार्क p. 781, वि. र. p. 134, वीर० p. 397.

भयत्राणाय रक्षार्थं तथा कार्यप्रसाधनात् ।
अनेन विधिना लब्धं विद्यात्प्रत्युपकारतः ॥६४५॥
प्राणसंशयमापन्नं यो मामुत्तारयेदितः ।
सर्वस्वं तस्य दास्यामीत्युक्तेपि न तथा भवेत् ॥६४६॥
कामक्रोधास्वतन्त्रार्तक्लीबोन्मत्तप्रमोहितैः ।
व्यत्यासपरिहासाच्च यद्दत्तं तत्पुनर्हरेत् ॥६४७॥
या तु कार्यस्य सिद्ध्यर्थमुत्कोचा स्यात्प्रतिश्रुता ।
तस्मिन्नपि प्रसिद्धेर्थे न देया स्यात्कथंचन ॥६४८॥
अथ प्रागेव दत्ता स्यात्प्रतिदाप्यस्तथा बलात्
दण्डं चैकादशगुणमाहुर्गार्गीयमानवाः ॥६४९॥
स्तेनसाहसिकोद्वृत्तपारजायिकशंसनात् ।
दर्शनाद्वृत्तनष्टस्य तथासत्यप्रवर्तनात् ॥६५०॥
प्राप्तमेतैस्तु यत्किंचित्तदुत्कोचाख्यमुच्यते ।
न दाता तत्र दण्ड्यः स्यान्मध्यस्थश्चैव दोषभाक् ॥६५१॥
नियुक्तो यस्तु कार्येषु स चेदुत्कोचमाप्नुयात् ।
स दाप्यस्तद्धनं कृत्स्नं दमश्चैकादशाधिकम् ॥६५२॥
अनियुक्तस्तु कार्यार्थमुत्कोचं यमवाप्नुयात् ।
कृतप्रत्युपकारार्थस्तस्य दोषो न विद्यते ॥६५३॥

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645 अपरार्क p. 781 (reads प्रत्युपकारकम्), स्मृतिच० III. p. 450, वि. र. p. 134, वीर० p. 398 (reads भयत्राणोपरक्षा० and लब्धं भयत्राणादिकं धनम्).

646 अपरार्क p. 781, स्मृतिच० III. 450, वि. र. p. 134.

647–649 अपरार्क pp. 781-782, स्मृतिच० III. p 452, परा. मा. III. p. 319, वि. र. p. 135-136, व्य. म. p. 205 (reads यस्तु and उत्कोचः); वीर० p. 399.

650–651 अपरार्क p. 782 (reads पारजापिक० and धृतनष्टस्य), स्मृतिच० III. p. 452, परा. मा. III. p. 320 (reads पारदारिकसंगमात्), वि. र. 137 (reads पारदारिक०), स. वि. p. 286 (reads पारदारिक० and and धृतनष्टस्य), वीर० pp. 399-400, व्य. म. p. 205.

652–653 स. वि. p. 286.

स्वस्थेनार्तेन वा दत्तं श्रावितं धर्मकारणात् ।
अदत्त्वा तु मृते दाप्यस्तत्सुतो नात्र संशयः ॥६५४॥
योगाधमनविक्रीतं योगदानप्रतिग्रहम् ।
यस्य वाप्युपधिं पश्येत्तत्सर्वं विनिवर्तयेत् ॥६५५॥
भृतावनिश्चितायां तु दशभागमवाप्नुयात् ।
लाभगोवीर्यसस्यानां वणिग्गोपकृषीवलाः ॥ ६५६ ॥

(वेतनस्यानपाकर्म)

कर्मारम्भं तु यः कृत्वा सिद्धं नैव तु कारयेत् ।
बलात्कारयितव्योऽसावकुर्वन्दण्डमर्हति ॥६५७॥
विघ्नयन्वाहको दाप्यः प्रस्थाने द्विगुणां भृतिम् ॥६५८॥
न तु दाप्यो हृतं चोरैर्दग्धमूढं जलेन वा ॥६५९॥
त्यजेत्पथि सहायं यः श्रान्तं रोगार्तमेव वा ।
प्राप्नुयात्साहसं पूर्वं ग्रामे त्र्यहमपालयन् ॥६६०॥
यदा तु पथि तद्भाण्डमासिध्येत ह्रियेत वा ।
यावानध्वा गतस्तेन प्राप्नुयात्तावतीं भृतिम् ॥६६१॥

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654 अपरार्क p. 782, स्मृतिच० III. p. 453, मिता on या. II. 176, परा. मा. III. p. 320, स. वि. p. 287.

655 अपरार्क p. 783 ; स. वि. p. 287 ascribes to नारद ; स्मृतिच० III. p 454, वीर० p. 400 and परा. मा. III. p. 320 ascribe to मनु (it is मनु. 8. 165).

656 स. वि. p. 298.

657 स्मृतिच० III. p. 473, परा. मा. III. p. 325 (reads सर्वं for सिद्धं), वि. र. p. 160 (सर्वं), स. वि. p. 299, वीर० p. 416 (reads सिद्धिं).

658 स्मृतिच० III. p. 475 (reads द्विगुणं स्मृतं), परा. मा. III. p. 327, वीर० p. 418.

659 स. वि. p. 300, अपरार्क p. 799, स्मृतिच० III. p. 475 and वीर० p. 418 (ascribes to वृद्धमनु).

660 स्मृतिच० III. p. 477, अपरार्क p. 800, परा. मा. III. p. 332, वि. र. p. 165, वीर० p. 421.

661 स्मृतिच० III. p. 478, परा. मा. III. p. 329, वि. र. p. 164, वि. चि. p. 50, वीर० p. 419.

हस्त्यश्वगोखरोष्ट्रादीन्गृहीत्वा भाटकेन यः ।
नार्पयेत्कृतकृत्यार्थः स तु दाप्यः सभाटकम् ॥६६२॥
गृहवार्यापणादीनि गृहीत्वा भाटकेन यः ।
स्वामिने नार्पयेद्यावत्तावद्दाप्यः सभाटकम् ॥६६३॥

(स्वामिपालविवादः)

क्षेत्रारामविवीतेषु गृहेषु पशुवाटिषु ।
ग्रहणं तत्प्रविष्टानां ताडनं वा बृहस्पतिः ॥६६४॥
अधमोत्तममध्यानां पशूनां चैव ताडने ।
स्वामी तु विवदेद्यत्र दण्डं तत्र प्रकल्पयेत् ॥६६५॥
अजातेष्वेव सस्येषु कुर्यादावरणं महत् ।
दुःखेनेह निवार्यन्ते लब्धस्वादुरसा मृगाः ॥६६६॥
दापयेत्पणपादं गां द्वौ पादौ महिषीं तथा ।
तथाजाविकवत्सानां पादो दण्डः प्रकीर्तितः ॥६६७॥

(समयस्यानपाकर्म संविद्व्यतिक्रमो वा)

समूहिनां तु यो धर्मस्तेन धर्मेण ते सदा ।
प्रकुर्युः सर्वकर्माणि स्वधर्मेषु व्यवस्थिताः ॥ ६६८ ॥
अविरोधेन धर्मस्य निर्गतं राजशासनम् ।
तस्यैवाचरणं पूर्वं कर्तव्यं तु नृपाज्ञया ॥ ६६९ ॥
राजप्रवर्तितान्धर्मान्यो नरो नानुपालयेत् ।
गर्ह्यः स पापो दण्ड्यश्च लोपयन्राजशासनम् ॥६७०॥

662–663 स्मृतिच० III. p. 479, परा. मा. III. pp. 330-31, वि. र. pp. 168-169, अपरार्क p. 801 (663 only), वीर० p. 420.

664 स्मृतिच० III. p. 487, वि. र. p. 241 , वि. चि. p. 69.

665 स्मृतिच० p. 488, अपरार्क p. 672, वि. र. p. 241, वि. चि. p. 69.

666 स्मृतिच० III. p. 488, अपरार्क p. 770, परा. मा. III. p. 378, वीर० p. 446.

667 स्मृतिच० III. p. 494 (first half), वि. र. p. 235, वि. चि. p. 67.

668 स्मृतिच० III. p. 525, वि. र. p. 180 and वीर० p. 426 (read समूहानां), परा. मा. III. p. 353 (also समूहानां).

669–670 स्मृतिच० III. pp. 525-526, वि. र. p. 181, वीर० p. 426.

युक्तियुक्तं च यो हन्याद्वक्तुर्योऽनवकाशदः ।
अयुक्तं चैव यो ब्रूते स दाप्यः पूर्वसाहसम् ॥ ६७१ ॥
साहसी भेदकारी च गणद्रव्यविनाशकः ।
उच्छेद्याः सर्व एवैते विख्याप्यैवं नृपे भृगुः ॥ ६७२ ॥
एकपात्रे च वा पङ्क्त्यां संभोक्ता यस्य यो भवेत् ।
अकुर्वंस्तत्तथा दण्ड्यस्तस्य दोषमदर्शयन् ॥ ६७३ ॥
गणमुद्दिश्य यत्किंचित्कृत्वर्णं भक्षितं भवेत् ।
आत्मार्थं विनियुक्तं वा देयं तैरेव तद्भवेत् ॥ ६७४ ॥
गणानां श्रेणिवर्गाणां गताः स्युर्ये तु मध्यताम् ।
प्राक्तनस्य धनर्णस्य समांशाः सर्व एव ते ॥ ६७५ ॥
तथैव भोज्यवैभाज्यदानधर्मक्रियासु च ।
समूहस्थोंऽशभागी स्यात्प्रगतस्त्वंशभाङ्न तु ॥६७६॥
यत्तैः प्राप्तं रक्षितं वा गणार्थे वा ऋणं कृतम् ।
राजप्रसादलब्धं च सर्वेषामेव तत्समम् ॥ ६७७ ॥

(नैगमादिसंज्ञालक्षणम्)

नानापौरसमूहस्तु नैगमः परिकीर्तितः ।
नानायुधधरा व्राताः समवेताः प्रकीर्तिताः ॥ ६७८ ॥

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671 अपरार्क p. 795, स्मृतिच० III. p. 527, परा. मा. III. p. 354 (हन्याद्यः कार्यानवकाशदः), वीर० p. 428, वि. र. p. 179.

672 अपरार्क p. 693, स्मृतिच० III. p. 530 (reads नृपैर्भृगुः and notices the reading नृपेभृगुः), वि. र. p. 183, वीर० p. 428.

673 अपरार्क p. 794, वि. र. p.185, वि. चि. p. 54, स. वि. p. 330 (reads पङ्क्त्यां वा न भोक्ता येन यो भवेत्। अकुर्वन् स तथा).

674 अपरार्क p. 795 (reads यैः कैश्चित्), स्मृतिच० III. p. 533, परा. मा. III. p 359, स. वि. p. 131, वि. र. p. 187, वि. चि. 55.

675–676 अपरार्क p. 795 (reads भोज्यं वैभाज्यं धनं), स्मृतिच० III. p. 533 (reads गणिनां शिल्पिवर्गाणां and वैभव्य), परा. मा. III. pp. 359-360 (reads प्राक्तनस्याधमर्णस्य, भोजनैर्भाव्यं and प्रगतस्त्वंश-भागभाक्), वि. र. pp. 187-188, वीर० p. 432 (reads वैभव्य and प्राग्गतः).

677 स. वि. p. 330.

678–682 वि. र. pp. 668-669; स्मृतिच० III. p. 524 and वीर० p. 426 and परा. मा. III. p. 352 have latter half of 678 and first

समूहो वणिजादीनां पूगः संपरिकीर्तितः ।
प्रवज्यावसिता ये तु पाषण्डाः परिकीर्तिताः ॥ ६७९ ॥
ब्राह्मणानां समूहस्तु गणः संपरिकीर्तितः ।
शिल्पोपजीविनो ये तु शिल्पिनः परिकीर्तिताः ॥६८०॥
आर्हतसौगतानां तु समूहः सङ्घ उच्यते ।
चाण्डालश्वपचादीनां समूहो गुल्म उच्यते ॥ ६८१ ॥
गणपाषण्डपूगाश्च व्राताश्च श्रेणयस्तथा ।
समूहस्थाश्च ये चान्ये वर्गाख्यास्ते बृहस्पतिः ॥ ६८२॥

(क्रयविक्रयानुशयः क्रीत्वानुशयो विक्रीय संप्रदानं वा)

क्रीत्वा प्राप्तं न गृह्णीयाद्यो न दद्याददूषितम् ।
स मूल्याद्दशमं भागं दत्त्वा स्वद्रव्यमाप्नुयात् ॥ ६८३ ॥
अप्राप्तेऽर्थक्रियाकाले कृते नैव प्रदापयेत् ।
एवं धर्मो दशाहात्तु परतोऽनुशयो न तु ॥ ६८४ ॥
भूमेर्दशाहे विक्रेतुरायस्तत्क्रेतुरेव च ।
द्वादशाहः सपिण्डानामपि चाल्पमतः परम् ॥ ६८५ ॥
क्रीत्वानुशयवान्पण्यं त्यजेद्दोषादि यो नरः ।
अदुष्टमेव काले तु स मूल्याद्दशमं वहेत् ॥ ६८६ ॥
क्रीत्वा गच्छन्ननुशयं क्रयी हस्तमुपागते ।
षड्भागं तत्र मूल्यस्य दत्त्वा क्रीतं त्यजेद्बुधः ॥६८७॥
अविज्ञातं तु यत्क्रीतं दुष्टं पश्चाद्विभावितम् ।
क्रीतं तत्स्वामिने देयं काले चेदन्यथा न तु ॥ ६८८ ॥

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half of 680 (they read कुलानां हि समूहस्तु). स्मृतिच॰ III. p. 40 has 682, latter half of 678 and first half of 680.

683–684 स्मृतिच॰ III. p.511, वि. र. pp. 191–192, परा. मा. III. p.367, स. वि. p. 310 (reads दशाहं तु), वि. चि. 56 (अप्राप्तेर्थे क्रियाकारे), वीर॰ p. 439 (अप्राप्तेथ क्रियाकाले), वि. र. also reads अप्राप्तेर्थे क्रियाकारे.

685 परा. मा. III. p. 364.

686 स्मृतिच॰ III. p 512, वि. र. p. 197, स. वि. p. 311 (क्रीत्वाप्यनुशयात्), वीर॰ p. 435 (reads क्रीत्वा चानुशयं पश्चात्त्यजेद्दोषाद्दते).

687 स्मृतिच॰ III. p. 512, वि. र. p. 197 (reads त्यजेद्गुः), वीर॰ p. 435.

688 स्मृतिच॰ III. p. 518, परा. मा. III. p. 361, वि. र. p. 199 (reads देयं पण्यं कालेऽन्यथा न तु), व्य. म. p. 217, वीर॰ p. 438,

निर्दोषं दर्शयित्वा तु यः सदोषं प्रयच्छति ।
मूल्यं तद् द्विगुणं दाप्यो विनयं तावदेव च ॥६८९॥
उपहन्येत वा पण्यं दह्येतापह्रियेत वा ।
विक्रेतुरेव सोनर्थो विक्रीयासंप्रयच्छतः ॥६९०॥
दीयमानं न गृह्णाति क्रीतं पण्यं च यः क्रयी ।
विक्रीतं च तदन्यत्र विक्रेता नापराध्नुयात् ॥६९१॥
मत्तोन्मत्तेन विक्रीतं हीनमूल्यं भयेन वा ।
अस्वतन्त्रेण मुग्धेन त्याज्यं तस्य पुनर्भवेत् ॥६९२॥
त्र्यहं दोह्यं परीक्षेत पञ्चाहाद्वाह्यमेव तु ।
मुक्तावज्रप्रवालानां सप्ताहं स्यात्प्रवीक्षणम् ॥६९३॥
द्विपदामर्धमासं तु पुंसां तद्द्विगुणं स्त्रियाः ।
दशाहं सर्वबीजानामेकाहं लोहवाससाम् ॥६९४॥
अतोर्वाक्पण्यदोषस्तु यदि संजायते क्वचित् ।
विक्रेतुः प्रतिदेयं तत् क्रेता मूल्यमवाप्नुयात् ॥६९५॥
परिभुक्तं तु यद्वासः क्लिष्टरूपं मलीमसम् ।
सदोषमपि तत्क्रीतं विक्रेतुर्न भवेत्पुनः ॥६९६॥
साधारणं तु यत्क्रीतं नैको दद्यान्नराधमः ।
नादद्यान्न च गृह्णीयाद्विक्रीयाच्च न चैव हि ॥६९७॥
क्रीत्वा मूल्येन यत्पण्यं दुष्क्रीतं मन्यते क्रयी ।
विक्रेतुः प्रतिदेयं तत्तस्मिन्नेवाह्न्यवीक्षितम् ॥६९८॥

689-690 स. वि. p. 311.

691 स. वि. p. 311, वि. चि. p. 57 (no name cited).

692 स. वि. p. 312; वीर० 441 and वि. चि. p. 57 ascribe to बृहस्पति.

693--695 स. वि. p. 316; वि. र. p. 199 ascribes first two to नारद and third to बृहस्पति; वि. चि p. 57 ascribes first two to व्यास and नारद and the third (p. 58) to बृहस्पति; परा. मा. III. p. 361 ascribes all three to व्यास and वीर० p. 433 ascribes all to नारद. The first two verses are Nārada 12. 5–6.

696 स. वि. p. 317; परा. मा. p. 364 and व्य. म. p. 217 ascribe it to नारद (it is नारद 12. 7).

697--699 स. वि. p. 317; परा. मा. III. p. 363 ascribes 698 to नारद

द्वितीयेह्नि ददत् क्रेता मूल्यात् त्र्यंशांशमाहरेत् ।
द्विगुणं तु तृतीयेह्नि परतः क्रेतुरेव तत् ॥६९९॥
द्रव्यस्वं पञ्चधा कृत्वा त्रिभागो मूल्यमुच्यते ।
लाभश्चतुर्थो भागः स्यात् पञ्चमः सत्यमुच्यते ॥ ७०० ॥
सान्धिश्च परिवृत्तिश्च विषमा वा त्रिभोगतः ।
आज्ञयापि क्रयश्चापि दशाब्दं विनिवर्तयेत् ॥७०१॥
ज्ञात्यादीननुज्ञाप्य समीपस्थाननिन्दितान् ।
क्रयविक्रयधर्मोपि भूमेर्नास्तीति निर्णयः ॥७०२॥
स्वग्रामे दशरात्रं स्यादन्यग्रामे त्रिपक्षकम् ।
राष्ट्रान्तरेषु षण्मासं भाषाभेदे तु वत्सरम् ॥ ७०३ ॥
पलायिते तु करदे करप्रतिभुवा सह ।
करार्थं करदक्षेत्रं विक्रीणीयुः सभासदः ॥७०४॥
समवेतैस्तु सामन्तैरभिज्ञैः पापभीरुभिः ।
क्षेत्रारामगृहादीनां द्विपदां च चतुष्पदाम् ॥७०५॥
कल्पितं मूल्यमित्याहुर्भागं कृत्वा तदष्टधा ।
एकभागातिरिक्तं वा हीनं वानुचितं स्मृतम् ॥७०६॥
समाः शतमतीतेपि सर्वं तद्विनिवर्तते ।
क्रयविक्रयणे क्रय्यं यन्मूल्यं धर्मतोर्हति ॥७०७॥
तत्तुर्ये पञ्चमे षष्ठे सप्तमेंऽशेष्टमेपि वा ।
हीनो(ने) यदि विनिर्वृत्ते क्रयविक्रायणे सति ॥७०८॥
हीनमूल्यं तु तत्सर्वं कृतमप्यकृतं भवेत् ॥
उत्कादल्पतरे हीने क्रये(यो ?) नैव प्रदुष्यति ॥७०९॥
तेनाप्यंशेन हीयेत मूल्यतः क्रयविक्रये ।
कृतमप्यकृतं प्राहुरन्ये धर्मविदो जनाः ॥७१०॥

(it is नारद 12. 2).
700 स. वि. p. 318.
701 स. वि. p. 320.
702--703 स. वि. p. 322.
704 स. वि. p. 324.
705--706 स. वि. p. 325.
707--710 स. वि. pp. 325-26.

अर्धाधिके क्रयः सिध्येदुक्तलाभो दशाधिक(द्विक)ः ।
अवक्रयस्त्रिभागेन [भोगेन] सद्य एव रुचिक्रयः॥७११॥
मूल्यात्स्वल्पप्रदानेपि क्रयसिद्धिः कृता भवेत् ।
चक्रवृद्ध्यां प्रदातव्यं देयं तत्समयादृते ॥ ७१२॥

(अभ्युपेत्याशुश्रूषा)

यस्तु न ग्राहयेच्छिल्पं कर्माण्यन्यानि कारयेत् ।
प्राप्नुयात्साहसं पूर्वं तस्माच्छिष्यो निवर्तते ॥७१३॥
शिक्षितोपि श्रितं काममन्तेवासी समाचरेत् ।
तत्र कर्म च यत्कुर्यादाचार्यस्यैव तत्फलम् ॥७१४॥
स्वतन्त्रस्यात्मनो दानाद्दासत्वं दारवद्भृगुः
त्रिषु वर्णेषु विज्ञेयं दास्यं विप्रस्य न क्वचित् ॥७१५॥
वर्णानामानुलाम्येन दास्यं न प्रतिलोमतः ।
राजन्यवैश्यशूद्राणां त्यजतां हि स्वतन्त्रताम् ॥७१६॥
समवर्णोपि विप्रं तु दासत्वं नैव कारयेत् ।
ब्राह्मणस्य हि दासत्वान्नृपतेजो विहन्यते ॥७१७॥
क्षत्रविट्शूद्रधर्मस्तु समवर्णे कदाचन ।
कारयेद्दासकर्माणि ब्राह्मणं न बृहस्पतिः ॥७१८॥

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711 स. वि. p. 326.

712 स. वि. p. 327.

713 अपरार्क p. 790, स्मृतिच० III. p. 457, परा. मा. III. 338, वि. र. p. 141, वीर० p. 403, स. वि. p. 290.

714 स. वि. p. 290, स्मृतिच० III. p. 457 (शिक्षितोपि कृतं कालमन्ते०); वीर० p. 403 ascribes to नारद and reads as स्मृतिच० does.

715 अपरार्क p. 788, स्मृतिच० III. p. 460; वि. र. p. 152, व्य. म. pp. 206-207, वीर० p. 405.

716 अपरार्क p. 788, स्मृतिच० III. p- 461 (वर्णक्रमानु०), परा. मा. III. p. 341, वि. र. p. 152, स. वि. p. 296 (reads the lines त्रिषु वर्णेषु and वर्णानामानु० as one verse).

717--718 अपरार्क p. 789 (puts verse 718 between the two halves of 717), स्मृतिच० III. pp. 461-62 (reads समवर्णेपि), परा. मा. III. p. 342 (reads असवर्णे तु विप्रस्य and श्रुताध्ययनसपन्नं), वि. र. p. 152 (order like that in अपरार्क), व्य. म. p. 207 and वीर० p. 407 (omit the line ब्राह्मणस्य हि &c.).

शीलाध्ययनसंपन्ने तदूनं कर्म कामतः ।
तत्रापि नाशुभं किंचित्प्रकुर्वीत द्विजोत्तमः ॥७१९॥
विण्मूत्रोन्मार्जनं चैव नग्नत्वपरिमर्दनम् ।
प्रायो दासीसुताः कुर्युर्गवादिग्रहणं च यत् ॥७२०॥
प्रव्रज्यावसिता यत्र त्रयो वर्णा द्विजादयः ।
निर्वासं कारयेद्विप्रं दासत्वं क्षत्रविड् नृपः ॥७२१॥
शूद्रं तु कारयेद्दासं क्रीतमक्रीतमेव वा ।
दास्यायैव हि सृष्टः स स्वयमेव स्वयम्भुवा ॥७२२॥
स्वदासीं यस्तु संगच्छेत्प्रसूता च भवेत्ततः ।
अवेक्ष्य बीजं कार्या स्याच्च दासी सान्वया तु सा॥७२३॥
दासस्य तु धनं यत्स्यात्स्वामी तस्य प्रभुः स्मृतः ।
प्रकाशं विक्रयाद्यत्तु न स्वामी धनमर्हति ॥७२४॥
दासेनोढा त्वदासी या सापि दासीत्वमाप्नुयात् ।
यस्माद्भर्ता प्रभुस्तस्याः स्वाम्यधीनः प्रभुर्यतः ॥७२५॥
आदद्याद् ब्राह्मणीं यस्तु विक्रीणीत तथैव च ।
राज्ञा तदकृतं कार्यं दण्ड्याः स्युः सर्व एव ते ॥७२६॥

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719 स्मृतिच० III. 461, वि. र. p. 152, वि. चि. p. 47.

720 वि. र. p. 144.

721 अपरार्क p. 787, स्मृतिच० III. p. 466 (reads क्षत्रविड्भृगुः), परा. मा. III. p. 345 (दासत्वं क्षत्रियं विशः), स. वि. p. 293, वि. चि. pp. 43-44, व्य. म. 207 (क्षत्रियं भृगुः), वीर० p. 406 (°विड् भृगुः).

722 स. वि. p. 296. This is मनु. 8. 413 (which reads ब्राह्मणस्य स्वयम्भुवा).

723 स्मृतिच० III. p. 468 (स्याच्च दासी), वि. र. p. 148, व्य. म. p. 210, वीर० p. 412.

724 स्मृतिच० III. p. 469 (first half), वि. र. p. 150, वि. चि. p. 46 (reads प्रसादविक्रयात्तु), व्य. म. p. 211 and वीर० 413 (first half only).

725 स्मृतिच० III. p. 469, स. वि. p. 194 (यस्तद्भर्ता and प्रभुस्तयोः), वि. चि. 46, व्य. म. p. 211, वीर० p. 412.

726–729 अपरार्क p. 789 (reads महादासीं for अदासीं च and भक्तदासीं).

कामात्तु संश्रितां यस्तु दासीं कुर्यात्कुलस्त्रियम् ।
संक्रामयेत वान्यत्र दण्ड्यस्तच्चाकृतं भवेत् ॥ ७२७॥
बालधात्रीमदासीं च दासीमिव भुनक्ति यः ।
परिचारकपत्नीं वा प्राप्नुयात्पूर्वसाहसम् ॥७२८॥
विक्रोशमानां यो भक्तां दासीं विक्रेतुमिच्छति ।
अनापदिस्थः शक्तः सन्प्रा ुयाद् द्विशतं दमम् ॥७२९॥
तवाहमिति चात्मानं योऽस्वतन्त्रः प्रयच्छति ।
न स तं प्राप्नुयात्कामं पूर्वस्वामी लभेत तम् ॥७३०॥
प्रव्रज्यावसितो दासो मोक्तव्यश्च न केनचित् ।
अनाकालभृतो दास्यान्मुच्यते गोयुगं ददत् ॥७३१॥

(सीमाविवादः)

आधिक्यं न्यूनता चांशे अस्तिनास्तित्वमेव च ।
अभोगभुक्तिः सीमा च षट् भूवादस्य हेतवः ॥७३२॥
तस्मिन्भोगः प्रयोक्तव्यः सर्वसाक्षिषु तिष्ठति ।
लेख्यारूढश्चेतरश्च साक्षी मार्गद्वयान्वितः ॥७३३॥
क्षेत्रवास्तुतडागेषु कूपोपवनसेतुषु ।
द्वयोर्विवादे सामन्तः प्रत्ययः सर्ववस्तुषु ॥७३४॥
सामन्तभावेऽसामन्तैः कुर्यात्क्षेत्रादिनिर्णयम् ।

वि. र. p. 154-155 (reads भुक्तां for भक्तां), वि. चि. 47, व्य. म p. 208, वीर० p. 413.

730 स. वि. p. 294, वि. चि. p. 44 (no name), वीर० p. 411 (ascribes to नारद).

731 स. वि. p. 293. The two halves seem to be parts of different verses.

732 मिता० on या. II. 150, स्मृतिच० III. p. 544, वि. र. p. 201 (अभोगे भुक्तिः), वीर० p. 451, अपरार्क p. 759.

733 अपरार्क p. 759, वि. र. p. 205 (स च साक्षिषु).

734 वि. र. p. 207.

735 अपरार्क p. 760, वीर० p. 456 (समेतभावात्सामन्तैः), परा. मा. III. p.397 (reads सीमान्तवासिसामन्तैः).

ग्रामसीमासु च तथा तद्वन्नगरदेशयोः ॥७३५॥
ग्रामो ग्रामस्य सामन्तः क्षेत्रं क्षेत्रस्य कीर्तितम् ।
गृहं गृहस्य निर्दिष्टं समन्तात्परिरभ्य हि ॥७३६॥
तेषामभावे सामन्तमौलवृद्धोध्दृतादयः ।
स्थावरे षट्प्रकारेऽपि नात्र कार्या विचारणा ॥७३७॥
संसक्तास्त्वथ सामन्तास्तत्संसक्तास्तथोत्तराः ।
संसक्तसक्तसंसक्ताः पद्माकाराः प्रकीर्तिताः ॥७३८॥
स्वार्थसिद्धौ प्रदुष्टेषु सामन्तेष्वर्थगौरवात् ।
तत्संसक्तैस्तु कर्तव्य उद्धारो नात्र संशयः ॥७३९॥
संसक्तसक्तदोषे तु तत्संसक्ताः प्रकीर्तिताः ।
कर्तव्या न प्रदुष्टास्तु राज्ञा धर्मं विजानता ॥७४०॥
नाज्ञानेन हि मुच्यन्ते सामन्ता निर्णयं प्रति ।
अज्ञानोक्तौ दण्डयित्वा पुनः सीमां विचारयेत् ।
कीर्तिते यदि भेदः स्याद्दण्ड्यास्तूत्तमसाहसम् ॥७४१॥
त्यक्त्वा दुष्टांस्तु सामन्तानन्यान्मौलादिभिः सह ।
संमिश्र्य कारयेत्सीमामेवं धर्मविदो विदुः ॥७४२॥

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736 स्मृतिच० III. p. 545, वि. र. p. 207, अपरार्क p. 759, वीर० p. 454.

737 मिता० on या. II. 152, स्मृतिच० III. p. 545, वि. र. p. 206, वि. चि. p. 61, वीर० p. 456.

738 मिता० on या. II. 152, अपरार्क p. 760, स्मृतिच० III. pp. 537-538, परा. मा. III. p. 389, वि. र. p. 213 (reads सक्तसक्तान्ताः).

739–740 मिता० on या. II. 152, अपरार्क p. 760 (reads तत्संसक्तेषु कर्तव्य), स्मृतिच० III. p. 538 (omits latter half of 740), वीर० pp. 454-55, वि. र. p. 207.

741 मिता० on या. II. 153, अपरार्क p. 763, वीर० 460 (the two latter halves only), परा. मा. III. pp. 397-398 (two latter halves), वि. र. p. 212.

742 मिता० on या. II. 153, अपरार्क p. 760, परा. मा. III. p. 398, (संमीक्ष्य for संमिश्र्य), स्मृतिच० III. p. 538 (reads संमर्श्य), वि. र. 208 (reads समीक्ष्य), वीर० p. 455.

ये तत्र पूर्वं सामन्ताः पश्चाद्देशान्तरं गताः ।
तन्मूलत्वात्तु ते मौला ऋषिभिः संप्रकीर्तिताः ॥७४३॥
निष्पाद्यमानं यैर्दृष्टं तत्कार्यं नृगुणान्वितैः ।
वृद्धा वा यदि वाऽवृद्धास्ते वृद्धाः परिकीर्तिताः॥७४४॥
उपश्रवणसंभोगकार्याख्यानोपचिह्निताः ।
उद्धरन्ति ततो यस्मादुद्धृतास्ते ततः स्मृतः ॥७४५॥
सामन्ताः साधनं पूर्वमनिष्टोक्तौ गुणान्विताः ।
द्विगुणास्तूत्तरा ज्ञेया ततोन्ये त्रिगुणा मताः ॥७४६॥
एको यद्वन्नयेत्सीमामुभयोरीप्सितः क्वचित् ।
मस्तके क्षितिमारोप्य रक्तवासाः समाहिताः ॥७४७॥
भयवर्जितभूपेन सर्वाभावे स्वयंकृता ॥७४८॥
क्षेत्रकूपतडागानां केदारारामयोरपि ।
गृहप्रासादावसथनृपदेवगृहेषु च ॥७४९॥
बहूनां तु गृहीतानां न सर्वे निर्णयं यदि ।
कुर्युर्भयाद्वा लोभाद्वा दाप्यास्तूत्तमसाहसम् ॥७५०॥
सीमाचङ्क्रमणे कोशे पादस्पर्शे तथैव च ।
त्रिपक्षपक्षसप्ताहं दैवराजिकमिष्यते ॥७५१॥

743–745 मिता० on या. II. 151 (तद्गुणान्वितैः), अपरार्क p. 759-760, स्मृतिच० III. p. 539, परा. मा. III. p. 390, स. वि. p. 334, वीर० p. 455.

746 मिता० on या. II. 152 (निर्दोषाः स्युर्गुणा०), अपरार्क p. 760, स्मृतिच० III. p. 540, वि. र. p. 208, वीर० p. 456 (ascribes to मनु).

747 अपरार्क p. 762.

748 वि. र. p. 216.

749 मिता० on या. II. 154, वि. र. p. 218, वीर० p. 457.

750 मिता० on या. II. 152, अपरार्क p. 763, परा. मा. III. p. 397, स्मृतिच० III. p. 546, व्य. म. p. 222, वीर० p. 460 .

751 मिता० on या. II. 152, अपरार्क p. 763, स्मृतिच० III. p. 543, व्य. म. p. 222, वीर० p. 458.

मेखलाभ्रमनिष्कासगवाक्षान्नोपरोधयेत् ।
प्रणालीं गृहवास्तुं च पीडयन्दण्डभाग्भवेत् ॥७५२॥
निवेशसमयादूर्ध्वं नैते योज्याः कदाचन ।
दृष्टिपातं प्रणालीं च न कुर्यात्परवेश्मनु ॥७५३॥
विण्मूत्रोदकवप्रं च वह्निश्वभ्रनिवेशनम् ।
अरत्निद्वयमुत्सृज्य परकुड्यान्निवेशयेत् ॥७५४॥
सर्वे जनाः सदा येन प्रयान्ति स चतुष्पथः ।
अनिरुद्धो यथाकालं राजमार्गः स उच्यते ॥७५५॥
न तत्र रोपयेत्किंचिन्नोपहन्यात्तु केनचित् ।
गुर्वाचार्यनृपादीनां मार्गादानात्तु दण्डभाक् ॥७५६॥
यस्तत्र संकरश्वभ्रान्वृक्षारोपणमेव च ।
कामात्पुरीषं कुर्याच्च तस्य दण्डस्तु माषकः ॥७५७॥
तटाकोद्यानतीर्थानि योऽमेध्येन विनाशयेत् ।
अमेध्यं शोधयित्वा तु दण्डयेत्पूर्वसाहसम् ॥७५८॥
दूषयेत्सिद्धतीर्थानि स्थापितानि महात्मभिः ।
पुण्यानि पावनीयानि प्राप्नुयात्पूर्वसाहसम् ॥७५९॥

752–753 अपरार्क pp. 764–765, वि. र. p. 219 (omits the line निवेश॰), व्य. म. p. 223, वीर॰ p. 463. स्मृतिच॰ III. p. 551 has 753 and reads दृष्टिप्रासं.

754 अपरार्क p. 765 (चक्रं च), स्मृतिच॰ III. p. 551, परा. मा. III. p. 400 (reads चक्रं च), वि.र. p. 220 (चक्रं च), व्य.म. p. 224, वीर॰ p. 464.

755 स्मृतिच॰ III. p. 552, वि. र. p. 221 (reads जनपदा and यथाकामं), व्य. म. p. 224, वीर॰ p. 464 (अनिषिद्धा).

756–757 वि. र. 221. अपरार्क p. 765 and परा. मा. p. 401 ascribe 757 to बृहस्पति.

758–759 स्मृतिच॰ III. p. 553, अपरार्क p. 765, वि. र. p. 222 (reads धान्यानि वापनीयानि), परा. मा. III. p. 402, व्य. म. p. 225, वीर॰ p. 465.

सीमामध्ये तु जातानां वृक्षाणां क्षेत्रयोर्द्वयोः ।
फलं पुष्पं च सामान्यं क्षेत्रस्वामिषु निर्दिशेत् ॥७६०॥
अन्यक्षेत्रे तु जातानां शाखा यत्रान्यसंश्रिताः ।
स्वामिनं तं विजानीयाद्यस्य क्षेत्रेषु संश्रिताः ॥७६१॥
अस्वाम्यनुमतेनैव संस्कारं कुरुते तु यः ।
गृहोद्यानतटाकानां संस्कर्ता लभते न तु ॥७६२॥
व्ययं स्वामिनि चायाते न निवेद्य नृपे यदि ।
अथावेद्य प्रयुक्तस्तु तद्गतं लभते व्ययम् ॥७६३॥
अशक्तितो न दद्याच्चेत् खिलार्थौ यत्कृतो व्ययः ।
तदष्टभागहीनं तु कर्षकः फलमाप्नुयात् ॥
वर्षाण्यष्टौ स भोक्ता स्यात्परतः स्वामिने तु तत् ॥७६४॥
अशक्तप्रेतनष्टेषु क्षेत्रिकेष्वनिवारितः ।
क्षेत्रं चेद्विकृषेत्कश्चिदश्नुवीत स तत्फलम् ॥७६५॥
विकृष्यमाणे क्षेत्रे च क्षेत्रिकः पुनराव्रजेत् ।
शीलोपचारं(खिलोपचारं?) तत्सर्वं दत्त्वा क्षेत्रमवाप्नुयात्॥७६६॥
तदष्टभागापचयाद् यावत्सप्त गताः समाः ।
समाप्तेष्टमे वर्षे भुक्तक्षेत्रं लभेत सः ॥७६७॥

(वाक्पारुष्यम्)

हुङ्कारः कासनं चैव लोके यच्च विगर्हितम् ।
अनुकुर्यादनुब्रूयाद् वाक्पारुष्यं तदुच्यते ॥७६८॥

760-761 अपरार्के p. 766 (reads संस्थिताः for संश्रिताः in both lines), स्मृतिच० III. p. 555, परा. मा. III. p. 404, त्रि. र. p. 223, व्य. म. p. 225, वीर० p. 417 (reads यस्य क्षेत्रस्य).

762-763 अपरार्के p. 767 (reads देयं स्वामिनि and लभते फलम्), स्मृतिच० III. p. 558, वि. र. p. 225 (reads देयं स्वामिनि), परा. मा. III. p. 407, स. वि. p. 340 (has only 762).

764 अपरार्के p. 768 (reads खिलार्थे च कृतं व्ययं and कर्षकात्फल०), स्मृतिच० III. 560, परा. मा. III. p. 409, वि. चि. p. 65, वीर० p. 470, स. वि. p. 340.

765-767 स. वि. p. 340. परा. मा. (III. pp. 408-409) and स्मृतिच० III. p. 560 ascribe 765-766 to नारद.

768 अपरार्के p. 805, स्मृतिच० III. p. 18.

निष्ठुराश्लीलतीव्रत्वात्तदपि त्रिविधं स्मृतम्
आक्षेपो निष्ठुरं ज्ञेयमश्लीलं न्यङ्गसंज्ञितम् ।
पतनीयैरुपाक्रोशैस्तीव्रमाहुर्मनीषिणः ॥७६९॥
यत्त्वसत्संज्ञितैरङ्गैः परमाक्षिपति कोचित् ।
अभूतैर्वाथ भूतैर्वा निष्ठुरा वाक्स्मृता बुधैः ॥७७०॥
न्यग्भावकरणं वाचा क्रोधात्तु कुरुते यदा ।
वृत्तदेशकुलादीनामश्लीला सा बुधैः स्मृता ॥७७१॥
महापातकयोक्त्री च रागद्वेषकरी च या ।
जातिभ्रंशकरी वाथ तीव्रा सा प्रथिता तु वाक् ॥७७२॥
योऽगुणान्कीर्तयेत्क्रोधान्निर्गुणे वा गुणज्ञताम् ।
अन्यसंज्ञानुयोगी वा वाग्दुष्टं तं नरं विदुः ॥७७३॥
अदुष्टस्यैव यो दोषान्कीर्तयेद्दोषकारणात् ।
अन्यापदेशवादी च वाग्दुष्टं तं नरं विदुः ॥७७४॥
मोहात् प्रमादात्सङ्घर्षात् प्रीत्या चोक्तं मयेति यत् ।
नाहमेवं पुनर्वक्ष्ये दण्डार्धं तस्य कल्पयेत् ॥७७५॥
यत्र स्यात्परिहारार्थं पतितस्तेन (पतितत्वेन ?) कीर्तनम् ।
वचनात्तत्र न स्यात्तु दोषो यत्र विभावयेत् ॥७७६॥
अन्यथा तुल्यदोषः स्यान्मिथ्योक्तौ तूत्तमः स्मृतः ॥ ७७७ ॥

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769 अपरार्क p. 805.

770–772 अपरार्क pp. 805–806 (reads न्यङ्गावगूरणं and राजद्वेष॰ for रागद्वेष॰), स्मृतिच॰ III. pp. 12-13 (reads अङ्कैः and वृत्तेर्देश॰), परा. मा. III. p. 429 (reads परस्याक्षिपति, अमूलैर्वाथ मूलैर्वा and वृत्तेर्देश॰) वि. र. p. 243 (reads न्यङ्गावगूरणं वाचा), वीर॰ p. 482.

773 वि. र. p. 244 and वीर॰ p. 484 (reads अन्यसंज्ञानियोजी).

774 वि. र. p. 245 ; स्मृतिच॰ III. p. 760 ascribes to नारद (and reads दुष्टस्यैव तु).

775 वि. र. p. 246 and वि. चि. p. 70 (ascribe to उशनस् and कात्यायन) स्मृतिच॰ III. p. 759 and व्य. म. p. 229 ascribe to उशनस्.

776 स्मृतिच॰ III. p. 760, वि. र. p. 258, वीर॰ p. 484.

777 वि. p. 258.

महता प्रणिधानेन वाग्दुष्टं साधयेन्नरम् ।
अतथ्यं श्रावितं राजा प्रयत्नेन विचारयेत् ॥
अनृताख्यानशीलानां जिह्वाच्छेदो विशोधनम् ॥७७८॥

(दण्डपारुष्यम्)

हेत्वादिभिर्न पश्येच्चेद्दण्डपारुष्यकारणम् ।
तत्र साक्षिकृतं चैव दिव्यं वा विनियोजयेत् ॥७७९॥
आभीषणेन दण्डेन प्रहरेद्यस्तु मानवः ।
पूर्वं चापीडितो वाथ स दण्ड्यः परिकीर्तितः ॥७८०॥
कर्णौष्ठघ्राणपादाक्षिजिह्वाशिश्नकरस्य च ।
छेदने चोत्तमो दण्डो भेदने मध्यमो भृगुः ॥७८१॥
मनुष्याणां पशूनां च दुःखाय प्रहते सति ।
यथा यथा भवेद् दुःखं दण्डं कुर्यात्तथा तथा ॥७८२॥
अस्पृश्यधूर्तदासानां म्लेच्छानां पापकारिणाम् ।
प्रतिलोमप्रसूतानां ताडनं नार्थतो दमः ॥७८३॥
छर्दिमूत्रपुरीषाद्यैरापाद्यः स चतुर्गुणः ।
षड्गुणः कायमध्ये स्यान्मूर्ध्नि त्वष्टगुणः स्मृतः ॥७८४॥
उद्धरणे तु हस्तस्य कार्यो द्वादशको दमः ।
स एव द्विगुणः प्रोक्तः पातनेषु स्वजातिषु ॥७८५॥

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778 वि. र. p. 258, वीर० p. 488 (last half).

779 अपरार्क p. 811, वि. र. p. 274, वि. चि. p. 77, वीर० pp. 481-82.

780 अपरार्क p. 812, परा. मा. III. p. 412 (reads अभीषणेन), वि. र. p. 276, वि. चि. p. 77.

781 अपरार्क p. 815 (no author named; reads गुरुः for भृगुः), स्मृतिच० III. p. 762, वि. र. p. 265 (reads °घ्राणनासाक्षि०), परा. मा. III. p. (पादादिजिह्वानासाकरस्य), वि. चि. p. 74, व्य. म. p. 230, वीर. p. 474.

782 परा. मा. III. p. 417, वीर० p. 475 (reads यथा महत्तरं दुःखं).

783 अपरार्क p. 813, वि. र. p. 278, वि. चि. p. 78.

784 अपरार्क p. 813, परा. मा. III.p. 413 (reads °द्यैः पादादौ च), वि. र. p. 262, वि. चि. p. 72, व्य. म. p. 230, वीर० p. 473 (°द्यैः स्पर्शने च)

785 वि. र. p. 262 (reads सजातिषु), परा. मा. III. p. 414, वि. चि. p. 78, वीर० p. 473.

वाक्पारुष्ये यथैवोक्ताः प्रातिलोम्यानुलोमतः ।
तथैव दण्डपारुष्ये पात्या दण्डा यथाक्रमम् ॥७८६॥
देहेन्द्रियविनाशे तु यथा दण्डं प्रकल्पयेत् ।
तथा तुष्टिकरं देयं समुत्थानं च पण्डितैः ॥
समुत्थानव्ययं चासौ दद्यादाव्रणरोपणात् ॥७८७॥
वाग्दण्डस्ताडनं चैव येषूक्तमपराधिषु ।
हृतं भग्नं प्रदाप्यास्ते शोध्यं निःस्वैस्तु कर्मणा ॥७८८॥
श्रान्तांस्तृषार्तान्क्षुधितानकाले वाहयेन्नरः ।
खरगोमहिषोष्ट्रादीन्प्राप्नुयात्पूर्वसाहसम् ॥७८९॥
द्विपणो द्वादशपणो वधे तु मृगपक्षिणाम् ।
सर्पमार्जारनकुलश्वसूकरवधे नृणाम् ॥७९०॥
गोकुमारीदेवपशुमुक्षाणं वृषभं तथा ।
वाहयन् साहसं पूर्वं प्राप्नुयादुत्तमं वधः ॥७९१॥
प्रमापणे प्राणभृतां दद्यात्तत्प्रतिरूपकम् ।
तस्यानुरूपं मूल्यं वा दद्यादित्यब्रवीन्मनुः ॥७९२॥
वनस्पतीनां सर्वेषामुपभोगो यथा यथा ।
तथा तथा दमः कार्यो हिंसायामिति धारणा ॥७९३॥
शिष्यं क्रोधेन हन्याच्चेदाचार्यो लतया विना ।
येनात्यर्थं भवेत्पीडा वादः स्याच्छिष्यतः पितुः ॥७९४॥

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786 स्मृतिच० III. p. 762, परा. मा. III. p. 418, वि. र. p. 269, स. वि. p. 481, व्य. म. p. 231, वीर० p. 476.

787 स्मृतिच० III. p. 765, अपरार्क p. 816, परा. मा. III. pp. 419-420, व्य. म. p. 232, वीर० pp. 476-77.

788 अपरार्क p. 816, वि. र. p. 270.

789 अपरार्क p. 818, वि. र. p. 280.

790 परा. मा. III. p. 424, वि. र. p. 279 (reads त्रिपणो), वीर० p. 479 (reads नकुलसूकराश्ववधे).

791 वीर० p. 479 ; परा. मा. III. p. 424 (पशुमक्षमं वृषभं and वधे) ascribes to मनु.

792 परा. मा. III. p. 425, वि. र. p. 284 (प्रतिरूपं तु दापयेत्).

793 वि. र० p. 284.

794 स्मृतिच० III. p. 2.

(साहसम्)

सहसा यत्कृतं कर्म तत्साहसमुदाहृतम् ॥७९५॥
सान्वयस्त्वपहारो यः प्रसह्य हरणं च यत् ।
साहसं च भवेदेवं स्तेयमुक्तं विनिह्नवः ॥७९६॥
विना चिह्नैस्तु यत्कार्यं साहसाख्यं प्रवर्तते ।
शपथैः स विशोध्यः स्यात्सर्ववादेष्वयं विधिः॥७९७॥
एकं चेद्बहवो हन्युः संरब्धाः पुरुषं नराः ।
मर्मघातो तु यस्तेषां स घातक इति स्मृतः ॥७९८॥
व्यापादनेन तत्कारी वधं चित्रमवाप्नुयात् ।
विनाशहेतुमायान्तं हन्यादेवाविचारयन् ॥७९९॥
उद्यतानां तु पापानां हन्तुर्दोषो न विद्यते ।
निवृत्तास्तु यदारम्भाद् ग्रहणं न वधः स्मृतः ॥८००॥
आततायिनि चोत्कृष्टे तपःस्वाध्यायजन्मतः ।
वधस्तत्र तु नैव स्यात्पापे हीने वधो भृगुः ॥८०१॥
उद्यतासिविषाग्निश्च चापोद्यतकरस्तथा ।
आथर्वणेन हन्ता च पिशुनश्चैव राजनि ॥८०२॥
भार्यातिक्रमकारी च रन्ध्रान्वेषणतत्परः ।
एवमाद्यान्विजानीयात्सर्वानेवाततायिनः ॥८०३॥
यशोवृत्तहरान्पापानाहुर्धर्मार्थहारकान् ।
अनाक्षारितपूर्वो यस्त्वपराधे प्रवर्तते ॥
प्राणद्रव्यापहारे च तं विद्यादाततायिनम् ॥८०४॥

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795 स. वि. p. 451.
796 स्मृतिच० III. p. 733, वि. र. p. 287 (reads सान्वयस्तु प्रहारो), स. वि. p. 457 (reads विनिह्नवे).
797 स्मृतिच० III. p. 722, परा. मा. III. 453.
798 स्मृतिच० III. p. 723, परा. मा. III. p. 454, वीर० p. 501.
799 वि. र. p. 371 (first half only), स्मृतिच० III. p. 727 (latter half only); the two halves are parts of different verses.
800 स्मृतिच० III. p. 729.
801 स्मृतिच० III. p. 730, व्य. म. p. 230.
802–803 स्मृतिच० III. p. 731, व्य. म. p. 241.
804 स्मृतिच० III. p. 731.

नखिनां शृङ्गिणां चैव दंष्ट्रिणां चाततायिनाम् ।
हस्त्यश्वानां तथान्येषां वधे हन्ता न दोषभाक् ॥८०५॥
गर्भस्य पातने स्तेनो ब्राह्मण्यां शस्त्रपातने ।
अदुष्टां योषितं हत्वा हन्तव्यो ब्राह्मणोपि हि ॥८०६॥
क्षतं भङ्गोपमर्दौ च कुर्याद्‌द्रव्येषु यो नरः ।
प्राप्नुयात्साहसं पूर्वं द्रव्यभाक्स्वाम्युदाहृतः ॥८०७॥
हरेद्भिन्द्याद्दहेद्वापि देवानां प्रतिमां यदि ।
तद्‌गृहं चैव यो भिन्द्यात्प्राप्नुयात्पूर्वसाहसम् ॥८०८॥
प्राकारं भेदयेद्यस्तु पातयेच्छातयेत्तथा ।
बध्नीयादम्भसो मार्गं प्राप्नुयात्पूर्वसाहसम् ॥८०९॥

(स्तेयम्)

प्रच्छन्नं वा प्रकाशं वा निशायामथवा दिवा ।
यत्परद्रव्यहरणं स्तेयं तत्परिकीर्तितम् ॥८१०॥
अन्यहस्तात्परिभ्रष्टमकामादुद्‌धृतं भुवि ।
चौरेण वा परिक्षिप्तं लोप्त्रं यत्नात्परीक्षयेत् ॥८११॥
तुलामानप्रतिमानप्रतिरूपकलक्षितैः ।
चरन्नलक्षितैर्वापि प्राप्नुयात्पूर्वसाहसम् ॥८१२॥
गृहे तु मुषितं राजा चौरग्राहांस्तु दापयेत् ।
आरक्षकांश्च दिक्पालान्यदि चौरो न लभ्यते ॥८१३॥

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805 स्मृतिच० III. p. 732.

806 विश्वरूप on या. II. 281.

807 अपरार्क p. 820, वि. र. p. 353, वि. चि. pp. 97-98.

808 अपरार्क p. 822, स्मृतिच० III. p. 757, वि. र. p. 364, वि. चि. p. 301 (reads छिन्द्यात् for भिन्द्यात्), स. वि. p. 474.

809 वि. र. p. 367.

810 दायभाग p. 224.

811 अपरार्क p. 841, मिता० on या. II. 268 (ascribes to नारद), वि. र. p. 337, परा. मा. III. p. 437 (ascribes to नारद).

812 वि. र. p. 295, वि. चि. p. 80.

813-814 अपरार्क p. 844 (reads अरक्षकान्), वि. र. 343, 345 (reads

ग्रामान्तरे हृतं द्रव्यं ग्रामाध्यक्षं प्रदापयेत् ।
विवीते स्वामिना देयं चौरोद्धर्ताविवीतके ॥८१४॥
स्वदेशे यस्य यत्किंचिद्धृतं देयं नृपेण तु ।
गृह्णीयात्तत्स्वयं नष्टं प्राप्तमन्विष्य पार्थिवः ॥८१५॥
चौरैर्हृतं प्रयत्नेन स्वरूपं प्रतिपादयेत् ।
तदभावे तु मूल्यं स्यादन्यथा किल्बिषी नृपः ॥८१६॥
लब्धेपि चौरे यदि तु मोषस्तस्मान्न लभ्यते ।
दद्यात्तमथवा चौरं दापयेत्तु यथेष्टतः ॥८१७॥
तस्मिंश्चेद्दाप्यमानानां भवेद्दोषे तु संशयः ।
मुषितः शपथं दाप्यो बन्धुभिर्वा विशोधयेत् ॥८१८॥
यस्मादपहृताल्लब्धं द्रव्यात्स्वल्पं तु स्वामिना ।
तच्छेषमाप्नुयात्तस्मात्प्रत्यये स्वामिना कृते ॥८१९॥
स्वदेशघातिनो ये स्युस्तथा मार्गनिरोधकाः ।
तेषां सर्वस्वमादाय राजा शूले निवेशयेत् ॥८२०॥
अचोराद्दापितं द्रव्यं चौरान्वेषणतत्परैः ।
उपलब्धे लभेरंस्ते द्विगुणं तत्र दापयेत् ॥८२१॥
येन येन परद्रोहं करोत्यङ्गेन तस्करः ।
छिन्द्यादङ्गं नृपस्तस्य न करोति यथा पुनः ॥८२२॥
त्रपुषे वारुके द्वे तु पञ्चाम्रं पञ्चदाडिमम् ।
खर्जूरबदरादीनां मुष्टिं गृह्णन्न दुष्यति ॥ ८८२ अ ॥
मानवाः सद्य एवाहुः सहोढानां प्रवासनम् ।
गौतमानामनिष्टं यत्प्राण्युच्छेदाद्विगर्हितम् ॥८२३॥

ग्रामान्तेषु and त्ववीतके), वि. चि. pp. 94-95 (reads ग्रामान्ते and चौरोद्धर्ता विवीतके).

815-817 अपरार्क p. 844, वि. र. p. 345 (reads नरः for नृपः), वि. चि. p. 95 (has 815-816).

818-819 अपरार्क p.844, वि. र. p.345-346 (ascribes them to वृद्धमनु).

820 अपरार्क p. 845, वि. र. p. 317 (ascribes to नारद and कात्यायन).

821 वि. र. p. 338.

822 अपरार्क p. 845 (reads करोत्यंशेन), वि. र. p. 329. वि. चि. p. 91.

822 A गृहस्थरत्नाकर (attributes to बृहस्पति and कात्यायन),

823 वि. र. p. 332.

सहोढमसहोढं वा तत्त्वागमितसाहसम्
प्रगृह्याच्छिन्नमावेद्य सर्वस्वैर्विप्रयोजयेत् ॥८२४॥
अयःसन्दानगुप्तास्तु मन्दभक्ता बलान्विताः ।
कुर्युः कर्माणि नृपतेरामृत्योरिति कौशिकः ॥८२५॥
परदेशादधृतं द्रव्यं वैदेश्येन यदा भवेत् ।
गृहीत्वा तस्य तद्द्रव्यमदण्डं तं विसर्जयेत् ॥८२६॥
चोराणां भक्तदा ये स्युस्तथाग्न्युदकदायकाः ।
क्रेतारश्चैव भाण्डानां प्रतिग्राहिण एव च ॥
समदण्डाः स्मृता ह्येते ये च प्रच्छादयन्ति तान्॥८२७॥
अविद्वान्याजको वा स्यात्प्रवक्ता चानवस्थितः ।
तावुभौ चोरदण्डेन विनीय स्थापयेत्पथि॥८२८॥

(स्त्रीसंग्रहणम्)

दूतोपचारयुक्तश्चेदवेलास्थानसंस्थितिः ।
कण्ठकेशाञ्चलग्राहः कर्णनासाकरादिषु ।
एकस्थानासनाहाराः संग्रहो नवधा स्मृतः ॥८२९॥
स्त्रीषु वृत्तोपभोगः स्यात्प्रसह्य पुरुषो यदा ।
वधे तत्र प्रवर्तेत कार्यातिक्रमणं हि तत् ॥८३०॥
कामार्ता स्वैरिणी या तु स्वयमेव प्रकामयेत् ।
राजादेशेन मोक्तव्या विख्याप्य जनसंनिधौ ॥८३१॥

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824 अपरार्क 849, वि. र. p. 332 (reads संगृह्य चिह्नमावेद्य...र्विनियोजयेत्), वि. चि. p. 92 (reads सर्वस्वेन वियोजयेत्).

825 अपरार्क p. 849, वि. र. p. 332, वि. चि. p. 92 (reads मन्दभक्त-गुणान्विताः).

826 अपरार्क p. 849, वि. र. p. 333 (reads स्वदेशेयः समाहरेत्).

827 परा. मा. III. p. 446, वि. र. p. 340, वि. चि. 93 (reads क्रेतारश्चोरभाण्डानां and has last two halves only), वीर. p. 498.

828 विश्वरूप on या. III. 252.

829 स्मृतिच० III. pp. 17–18.

830 स्मृतिच० III. p. 742, व्य. म. p. 244. (reads कृतोपभोगः), वीर. p. 504.

831 अपरार्क p. 860.

आरम्भकृत्सहायश्च तथा मार्गानुदेशकः।
आश्रयः शस्त्रदाता च भक्तदाता विकर्मिणाम् ॥८३२॥
युद्धोपदेशकश्चैव तद्विनाशप्रदर्शकः।
उपेक्षाकार्ययुक्तश्च दोषवक्त्रनुमोदकः ॥८३३॥
अनिषेद्धाक्षमो यः स्यात्सर्वे तत्कार्यकारिणः।
यथाशक्त्यनुरूपं तु दण्डमेषां प्रकल्पयेत् ॥८३४॥

(स्त्रीपुंधर्मः)

पत्या चाप्यवियोगिन्या शुश्रूष्योन्निर्विनीतया।
सौभाग्यवद्वैधव्यकाम्यया भर्तृभक्तया ॥८३५॥
पतिशुश्रूषयैव स्त्री सर्वान्कामान्समश्नुते।
दिवः पुनरिहायाता सुखानां शेवधिर्भवेत् ॥८३६॥
मृते भर्तरि या साध्वी ब्रह्मचर्ये व्यवस्थिता।
सारुन्धतीसमाचारा ब्रह्मलोके महीयते ॥८३७॥

(दायविभागः)

सकलं द्रव्यजातं यद्भागैर्गृह्णन्ति तत्समैः।
पितरो भ्रातरश्चैव विभागो धर्म्य उच्यते ॥८३८॥
पैतामहं समानं स्यात्पितुः पुत्रस्य चोभयोः।
स्वयं चोपार्जिते पित्रा न पुत्रः स्वाम्यमर्हति ॥८३९॥
पैतामहं च पित्र्यं च यच्चान्यत्स्वयमार्जितम्।
दायादानां विभागे तु सर्वमेतद्विभज्यते ॥८४०॥

832-834 अपरार्क p. 821 (०कार्ययुक्तस्य), परा. मा. III. p. 455 (reads धर्मानुदेशकः, तद्विनाशप्रवर्तकः, वक्तानुमोदकः), वि. र. p. 375 (reads दोषवक्तानु०), वि. चि. p. 107 (युक्त्योपदेशकश्चैव तथा नाशप्रवर्तकः and दोषवक्तानु०), स. वि. p. 464 (omits the line अनिषेद्धा &c.), वीर० p. 501,(reads दोषवक्तानुदेशकः and दोषवक्तानुमोदकः); स्मृतिच० III. pp. 723-724 seems to attribute 832-833 to बृहस्पति and cites 834 as स्मृत्यन्तर.

835-837 स्मृतिच० III. p. 589, 591, 596.

838 स्मृतिच० III. p. 608, स. वि. p. 354, व्य. म. p. 98, वीर० p. 571 (reads पितरौ).

839 स्मृतिच० III. pp. 648 and 650.

840 दायभाग p. 105, स्मृतिच० III. p. 635, परा. मा. III. p. 556, स. वि. p. 367, वि. चि. p. 134, वि. र. 496.

दृश्यमानं विभज्येत गृहं क्षेत्रं चतुष्पदम् ।
गूढद्रव्याभिशङ्कायां प्रत्ययस्तत्र कीर्तितः ॥८४१॥
गृहोपस्करवाह्याश्च दोह्याभरणकर्मिणः ।
दृश्यमाना विभज्यन्ते कोशं गूढेब्रवीद्भृगुः ॥८४२॥
जीवद्विभागे तु पिता नैकं पुत्रं विशेषयेत् ।
निर्भाजयेन्न चैवैकमकस्मात्कारणं विना ॥८४३॥
संप्राप्तव्यवहाराणां विभागश्च विधीयते ।
पुंसां च षोडशे वर्षे जायते व्यवहारिता ॥८४४॥
अप्राप्तव्यवहाराणां च धनं व्ययविवर्जितम् ।
न्यसेयुर्बन्धुमित्रेषु प्रोषितानां तथैव च ॥८४५॥
प्रोषितस्य तु यो भागो रक्षेयुः सर्व एव तम् ।
बालपुत्रे मृते रिक्थं रक्ष्यं तत्तन्तुबन्धुभिः(रक्षितव्यं तु बन्धुभिः?)
पौगण्डाः परतस्तं तु विभजेरन् यथांशतः ॥८४५॥ अ.
भ्रात्रा पितृव्यमातृभ्यां कुटुम्बार्थमृणं कृतम् ।
विभागकाले देयं तद्रिक्थिभिः सर्वमेव तु ॥८४६॥
तदृणं धनिने देयं नान्यथैव प्रदापयेत् ।
भावितं चेत्प्रमाणेन विरोधात्परतो यदा ॥८४७॥
धर्मार्थं प्रीतिदत्तं च यदृणं स्यान्नियोजितम् ।
तद् दृश्यमानं विभजेन्न दानं पैतृकाद्धनात् ॥८४८॥

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841 अपरार्क p. 723, स्मृतिच० III. p. 645 (first half) and p. 636 (latter half), वि. र. p. 498.

842 अपरार्क p. 723 (reads ०कर्मणः, दृश्यमानं विभाज्यं तु), स्मृतिच० III. p. 635, परा. मा. III. p. 557, वि. र. p. 498.

843 वीर० p. 559, दायभाग p. 56.

844 अपरार्क p. 722.

845 दायभाग p. 62, वीर० p. 587.

845 A वि. र. p. 599.

846 अपरार्क p. 722, हरदत्त on आप. ध. सू. II. 6. 14. 1, स्मृतिच० III. p. 616, व्य. म. p. 122, स. वि. p. 356, वि. र. 496.

847 अपरार्क p. 722, वि. र. p. 497.

848 स्मृतिच० III. p. 617, अपरार्क p. 723 and स. वि. p. 356, विर. p. 497 (read स्वनियोजितम्).

पित्र्यं पित्र्यर्णसंशुद्धमात्मीयं चात्मना कृतम् ।
ऋणमेवंविधं शोध्यं विभागे बन्धुभिः सह ॥८४९॥
ऋणं प्रीतिप्रदानं च दत्त्वा शेषं विभाजयेत् ॥८५०॥
द्व्यंशहरोऽर्धहरो वा पुत्रवित्तार्जनात्पिता ।
मातापि पितरि प्रेते पुत्रतुल्यांशभागिनी ॥८५१॥
यथा यथा विभागाप्तं धनं यागार्थतामियात् ।
तथा तथा विधातव्यं विद्वद्भिर्भागगौरवम् ॥८५२॥
लोके रिक्थविभागेऽपि न कश्चित्प्रभुतामियात् ।
भोग एव तु कर्तव्यो न दानं न च विक्रयः ॥८५३॥
विभक्ता अविभक्ता वा दायादाः स्थावरे समाः ।
एको ह्यनीशः सर्वत्र दानाधमनविक्रये ॥८५४॥
अविभक्तेऽनुजे प्रेते तत्सुतं रिक्थभागिनम् ।
कुर्वीत जीवनं येन लब्धं नैव पितामहात् ॥८५५॥
लभेतांशं स पित्र्यं तु पितृव्यात्तस्य वा सुतात् ।
स एवांशस्तु सर्वेषां भ्रातॄणां न्यायतो भवेत् ॥
लभेत तत्सुतो वापि निवृत्तिः परतो भवेत् ॥८५६॥

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849 अपरार्के p. 723, स्मृतिच० III. p. 635 (latter half), परा. मा. III. p. 557 (latter half), वि. र. p. 497 and व्य. म. p. 122 (पित्र्यर्णसंबद्धम्).

850 परा. मा. III. p. 557, स्मृतिच० III. p. 635, व्य. म. p. 222, वि. र. p. 496 (reads रिक्थं प्रीतिप्रदत्तं तु दत्त्वा शेषं विभाजयेत् । आचतुर्थात्तु तद्ग्राह्यं क्रमेणैव तु तत्सुतैः)

851 दायभाग p. 49, वीर० p. 566.

852 स्मृतिच० III. p. 618, परा. मा. III. p. 490.

853 स्मृतिच० III. p. 646.

854 मिता० on या. II. 114 (without name), अपरार्क p. 757, वीर० p. 395, वि. चि. p. 161 (without name). दायभाग p. 34 ascribes to व्यास.

855–856 अपरार्क p. 727, परा. मा. III. pp. 495–96, वीर० p. 578, स. वि. p. 373, वि. चि. p. 101, व्य. म. p. 101, वि. र. p. 482 (reads मृते पुत्रे).

उत्पन्ने चौरसे पुत्रे चतुर्थांशहराः सुताः ।
सवर्णा असवर्णास्तु ग्रासाच्छादनभाजनाः ॥८५७॥
कन्यकानां त्वदत्तानां चतुर्थो भाग इष्यते ।
पुत्राणां तु त्रयो भागाः साम्यं त्वल्पधने स्मृतम्॥८५८ ॥
क्षेत्रिकस्य मतेनापि फलमुत्पादयेत्तु यः ।
तस्येह भागिनौ तौ तु न फलं हि विनैकतः ॥८५९॥
क्लीबं विहाय पतितं या पुनर्लभते पतिम् ।
तस्यां पौनर्भवो जातो व्यक्तमुत्पादकस्य सः ॥८६०॥
न मूत्रं फेनिलं यस्य विष्ठा चाप्सु निमज्जति ।
मेढ्रश्चोन्मादशुक्राभ्यां हीनः क्लीबः स उच्यते ॥८६१॥
अक्रमोढासुतश्चैव सगोत्राद्यस्तु जायते ।
प्रव्रज्यावसितश्चैव न रिक्थं तेषु चार्हति ॥८६२॥
अक्रमोढासुतस्त्वृक्थी सवर्णश्च यदा पितुः ।
असवर्णप्रसूतश्च क्रमोढायां च यो भवेत् ॥८६३॥
प्रतिलोमप्रसूता या तस्याः पुत्रो न रिक्थभाक् ।
ग्रासाच्छादनमत्यन्तं देयं तद्बन्धुभिर्मतम् ॥८६४॥

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857 मिता० on या. II. 132, अपरार्क p. 733, परा. मा. III. p. 515, स. वि. p. 393, वि. चि p. 150 (reads तृतीयांशहराः and ०च्छादनभागिनः), वीर० p. 615, दायभाग p. 148 (reads तृतीयांशहराः and भागिनः for भाजनाः), मद. पा. p. 658.

858 दायभाग p. 69, स्मृतिच० III. p. 626, वीर० p. 582, वि. र. p. 494.

859–60 वीर० pp. 604, 608, वि. र. 564 (has 860 only). वि. र. p. 557 has a verse similar to 859, which it ascribes to नारद and कात्यायन. It is क्षेत्रिकानुमते बीजं यस्य क्षेत्रे प्रजायते । तदपत्यं तयोरेव बीजिक्षेत्रिकयोर्मतम् ॥

861 दायभाग p. 102.

862 दायभाग 103, अपरार्क p. 750, स्मृतिच० III. p. 630, परा. मा. III. p. 546, व्य. म. p. 163, वि. चि. p. 133, वीर० p. 712, वि. र. p. 491.

863–864 दायभाग p. 103 (reads प्रतिलोमप्रसूतो यः and ग्रासाच्छादनमात्रं तु), व्य. म. p. 164, वीर० p. 712, वि. र. p. 491, वि. चि. p. 134 (has 863).

बन्धूनामप्यभावे तु पितृद्रव्यं तदाप्नुयात् ।
अपित्र्यं द्रविणं प्राप्तं दापनीया न बान्धवाः ॥८६५॥

(अविभाज्यानि)

स्वशक्त्यापहृतं नष्टं स्वयमाप्तं च यद्भवेत् ।
एतत्सर्वं पिता पुत्रैर्विभागे नैव दाप्यते ॥८६६॥
परभक्तोपयोगेन विद्या प्राप्तान्यतस्तु या ।
तया प्राप्तं धनं यत्तु विद्याप्राप्तं तदुच्यते ॥८६७॥
उपन्यस्ते तु यल्लब्धं विद्यया पणपूर्वकम् ।
विद्याधनं तु तद्विद्याद्विभागे न विभज्यते ॥८६८॥
शिष्यादार्त्विज्यतः प्रश्नात् संदिग्धप्रश्ननिर्णयात् ।
स्वज्ञानशंसनाद्वादाल्लब्धं प्राध्ययनाच्च यत् ॥
विद्याधनं तु तत्प्राहुर्विभागे न विभज्यते ॥ ८६९ ॥
शिल्पिष्वपि हि धर्मोऽयं मूल्याद्यच्चाधिकं भवेत् ॥ ८७०
परं निरस्य यल्लब्धं विद्यातो द्यूतपूर्वकम् ।
विद्याधनं तु तद्विद्यान्न विभाज्यं बृहस्पतिः ॥ ८७१ ॥
विद्याप्रतिज्ञया लब्धं शिष्यादाप्तं च यद्भवेत् ।
ऋत्विङ्न्यायेन यल्लब्धमेतद्विद्याधनं भृगुः ॥ ८७२ ॥

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865 स्मृतिच० III. p. 632, दायभाग p. 103 (reads स्वपित्र्यं तद्धनं), वीर० p. 712 (reads स्वपित्र्यं तद्धनं प्राप्तं), वि. र. p. 491 (अपित्र्यं तद्धनं).

866 अपरार्क p. 728, स्मृतिच० III. p. 651, परा. मा. III. p. 498 (reads ०हृतं द्रव्यं).

867 मिता० on य[I]. II. 118-119, अपरार्क p. 724, हरदत्त on आप. ध. सू. II. 6. 14. 1., कुल्लूक on मनु 9. 206, स्मृतिच० III. p. 637, परा. मा. III. p. 559, मद. पा. p. 685.

868-870 दायभाग pp. 122-123 (reads शिल्पेष्वपि), अपरार्क p. 724, परा. मा. III. p. 559, वि. र. 502 (reads परभक्तप्रदानेन and शिल्पेष्वपि), वि. चि. p. 136, स. वि. p. 368, कुल्लूक on मनु 9. 206 (has 868-69), स्मृतिच० III. p. 637.

871-872 अपरार्क p. 724, वि. र. p. 502, स्मृतिच० III. p. 637, परा. मा. III. p. 559 (reads विद्यातोद्धृतपूर्वकम् and has only 871), व्य. म. p. 125, दायभाग p. 123 (has 871 only). The परा. मा., स्मृतिच० and व्य. म. read 870 after 872.

विद्याबलकृतं चैव याज्यतः शिष्यतस्तथा ।
एतद्विद्याधनं प्राहुः सामान्यं यदतोन्यथा ॥ ८७३ ॥
कुले विनीतविद्यानां भ्रातॄणां पितृतोपि वा ।
शौर्यप्राप्तं तु यद्वित्तं विभाज्यं तद्बृहस्पतिः ॥ ८७४ ॥
नाविद्यानां तु वैद्येन देयं विद्याधनात्क्वचित् ।
समविद्याधिकानां तु देयं वैद्येन तद्धनम् ॥ ८७५ ॥
आरुह्य संशयं यत्र प्रसभं कर्म कुर्वते ।
तस्मिन्कर्मणि तुष्टेन प्रसादः स्वामिना कृतः ॥
तत्र लब्धं तु यत्किञ्चित् धनं शौर्येण तद्भवेत् ॥८७६॥
शौर्यप्राप्तं विद्यया च स्त्रीधनं चैव यत्स्मृतम् ।
एतत्सर्वं विभागे तु विभाज्यं नैव रिक्थिभिः ॥८७७॥
ध्वजाहृतं भवेद्यत्तु विभाज्यं नैव तत्स्मृतम् ।
संग्रामादाहृतं यत्तु विद्राव्य द्विषतां बलम् ।
स्वाम्यर्थे जीवितं त्यक्त्वा तद्ध्वजाहृतमुच्यते॥८७८॥
यल्लब्धं दानकाले तु स्वजात्या कन्यया सह ।
कन्यागतं तु तद्वित्तं शुद्धं वृद्धिकरं स्मृतम् ॥ ८७९ ॥
वैवाहिकं तु तद्विद्याद्भार्यया यत्सहागतम् ।
धनमेवंविधं सर्वं विज्ञेयं धर्मसाधकम् ॥ ८८० ॥

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873 अपरार्के p. 724 (reads विद्यापणकृतावैव), स्मृतिच० III. p. 637, परा. मा. III. p. 559, वि. र. p. 502 (reads विद्यापणकृतं चैत्र).

874 स्मृतिच० III. p. 638–39, परा. मा. III. p. 560, व्य. म. p. 126, वि. चि. p. 136.

875 अपरार्के p. 725, स्मृतिच० III. p. 639, दायभाग p. 108, व्य. म. p. 126, वि. चि. p. 136, वि. र. p. 500, हरदत्त on आप. ध. सू. II. 6·14·1.

876 अपरार्के p. 725, स्मृतिच० III. p. 639–40, दायभाग p. 126, व्य. म. p. 127, वि. चि. p. 137.

877 परा. मा. III. p. 561.

878 अपरार्के p. 725, दायभाग p. 126, स्मृतिच० III. p. 640, परा. मा. III. p. 561, व्य. म. p. 127, वि. चि. p. 137.

879–880 अपरार्के pp. 723-724 (reads लाभकाले for दानकाले and वृत्तिकरं for वृद्धिकरं), स्मृतिच० III. pp. 640-641, वि. चि. p. 137, व्य. म. p. 128 (reads लाभकाले).

विवाहकाले यत्किंचिद्वरायोद्दिश्य दीयते।
कन्यायास्तद्धनं सर्वमविभाज्यं च बन्धुभिः ॥ ८८१ ॥
धनं पत्रनिविष्टं तु धर्मार्थं च निरूपितम् ।
उदकं चैव दासश्च निबन्धो यः क्रमागतः ॥ ८८२ ॥
धृतं वस्त्रमलंकारो नानुरूपं तु यद्भवेत् ।
यथा कालोपयोग्यानि तथा योज्यानि बन्धुभिः॥८८३॥
गोप्रचारश्च रक्षा च वस्त्रं यच्चाङ्गयोजितम् ।
प्रयोज्यं न विभज्येत धर्मार्थं च बृहस्पतिः ॥ ८८४ ॥
देशस्य जातेः सङ्घस्य धर्मो ग्रामस्य यो भृगुः ।
उदितः स्यात् स तेनैव दायभागं प्रकल्पयेत् ॥८८४ अ

(प्रच्छादितरिक्थस्य पुनर्विभागः)

प्रच्छादितं यदि धनं पुनरासाद्य तत्समम् ।
भजेरन्भ्रातृभिः सार्धमभावे हि पितुः सुताः ॥ ८८५ ॥
अन्योन्यापहृतं द्रव्यं दुर्विभक्तं च यद्भवेत् ।
पश्चात्प्राप्तं विभज्येत समभागेन तद्भृगुः ॥ ८८६ ॥
विभक्तेनैव यत्प्राप्तं धनं तस्यैव तद्भवेत् ।
हृतं नष्टं च यल्लब्धं प्रागुक्तं च पुनर्भजेत् ॥ ८८७ ॥
बन्धुनापहृतं द्रव्यं बलान्नैव प्रदापयेत् ।
बन्धूनामविभक्तानां भोगं नैव प्रदापयेत् ॥ ८८८ ॥

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881 अपरार्क p. 751 (without name), स्मृतिच० III. p. 641.

882–884 अपरार्क pp. 725-726 (reads दाराश्च for दासश्च), व्य. म. p. 131 (has 882-883), दायभाग has 884 and reads रथ्या for रक्षा, प्रायोज्यं for प्रयोज्यं and शिल्पार्थं for धर्मार्थम्, वि. र. pp. 504-505 (दाराश्च for दासश्च and शिल्पार्थं).

884A वि. र. p. 505.

885-887 अपरार्क pp. 732-733 (has 885, first half of 886 and) latter half of 887), स्मृतिच० III.pp. 714-715 (has all three), दायभाग p. 221 (has 885-886 and reads प्रच्छादितं तु यथेन पुनरागत्य and अभावेपि हि तत्सुताः), वि. चि. p. 132 (has 885-886 and reads as दायभाग does), स. वि. pp. 438-439 (has all three), वि. र. p. 526.

888 दायभाग p. 222, वि. चि. p. 144 (latter half) , वीर० p. 707, वि. र. p. 526.

(बह्वोः कालादपि साधारणक्षेत्रविभागः)

क्षेत्रं साधारणं त्यक्त्वा योन्यदेशं समाश्रितः ।
तद्वंश्यस्यागतस्यांशः प्रदातव्यो न संशयः ॥ ८८९ ॥
तृतीयः पञ्चमो वापि सप्तमश्चापि यो भवेत् ।
जन्मनामपरिज्ञाने लभेतांशं क्रमागतम् ॥ ८९० ॥
यं परंपरया मौलाः सामन्ताः स्वामिनं विदुः ।
तदन्वयस्यागतस्य दातव्या गोत्रजैर्मही ॥ ८९१ ॥
विभक्ताः पितृवित्ताच्चेदकत्र प्रतिवासिनः ।
विभजेयुः पुनर्द्व्यंशं स लभेतोदयो यतः ॥ ८९२ ॥

(विभक्तचिह्नादि)

वसेयुर्दश वर्षाणि पृथग्धर्माः पृथक्क्रियाः ।
भ्रातरस्तेपि विज्ञेया विभक्ताः पैतृकाद्धनात्॥ ८९३ ॥

(स्त्रीधनलक्षणं स्त्रीधनप्रकाराश्च)

अध्यग्न्यध्यावाहनिकं दत्तं च प्रीतितः स्त्रियै ।
भ्रातृमातृपितृप्राप्तं षड्विधं स्त्रीधनं स्मृतम् ॥ ८९४ ॥
विवाहकाले यत्स्त्रीभ्यो दीयते ह्यग्निसंनिधौ ।
तदध्यग्निकृतं सद्भिः स्त्रीधनं परिकीर्तितम् ॥ ८९५ ॥
यत्पुनर्लभते नारी नीयमाना पितुर्गृहात् ।
अध्यावहनिकं चैव स्त्रीधनं तदुदाहृतम् ॥ ८९६ ॥

889-891 वि. चि. p. 132, व्य. म. pp. 101-102 (has 889, but assigns no name and reads गोत्रसाधारणं and ascribes 890 to बृहस्पति); स्मृतिच० III. pp. 712-713 ascribes all three to बृहस्पति.

892 दायभाग p. 110.

893 अपरार्क p. 757 (reads वसेयुर्ये दशाब्दानि and विभक्ता भ्रातरस्ते च विज्ञेया पैतृके धने), स्मृतिच० III. p. 719, स वि. p. 443.

894 दायभाग p. 72 (ascribes to मनु and कात्यायन) ,वि. र. p. 522 and वि. चि. p. 138 (also do so).

895–897 मिता. on या. II. 143, अपरार्क p. 751 (reads पादवन्दनिकं तत्तु लावण्यार्जितमुच्यते), स्मृतिच० III. p. 651, परा. मा. III. p. 547, कुल्लूक on मनु. 9. 194 (has 895–896 and reads नीयमाना तु पैतृकात्),वि. र. p. 524 and वि. चि. p. 138 (reads यत्तल्लावण्यार्जित.

प्रीत्या दत्तं तु यत्किंचित् श्वश्र्वा वा श्वशुरेण वा ।
पादवन्दनिकं चैव प्रीतिदत्तं तदुच्यते ॥ ८९७ ॥
गृहोपस्करवाह्यानां दोह्याभरणकर्मिणाम् ।
मूल्यं लब्धं तु यत्किंचिच्छुल्कं तत्परिकीर्तितम्॥८९८॥
विवाहात्परतो यत्तु लब्धं भर्तृकुलात्स्त्रिया ।
अन्वाधेयं तदुक्तं तु लब्धं बन्धुकुलात्तथा ॥ ८९९ ॥
ऊर्ध्वं लब्धं तु यत्किंचित् संस्कारात् प्रीतितः स्त्रिया ।
भर्तुः पित्रोः सकाशाद्वा अन्वाधेयं तु तद्भृगुः ॥ ९०० ॥
ऊढया कन्यया वापि भर्तुः पितृगृहेऽपि वा ।
भ्रातुः सकाशात्पित्रोर्वा लब्धं सौदायिकं स्मृतम् ॥९०१

(स्त्रीधने स्वाम्यादिविचारः)

पितृमातृपतिभ्रातृज्ञातिभिः स्त्रीधनं स्त्रियै ।
यथाशक्त्या द्विसाहस्राद्दातव्यं स्थावरादृते ॥ ९०२ ॥
यत्तु सोपाधिकं दत्तं यच्च योगवशेन वा ।
पित्रा भ्रात्राथवा पत्या न तत्स्त्रीधनमिष्यते ॥ ९०३ ॥

मुच्येत and नीयमान हि पैतृकात्), मद. पा. p. 671 ,दायभाग p. 73, (has 895-96 and reads नीयमाना हि पैतृकात्).

898 दायभाग p. 93, अपरार्क p. 752, स्मृतिच० III. p. 652, व्य. म. p. 153, वीर० p. 690, वि. र. p. 525, मद. पा. p. 671.

899–900 दायभाग p. 71 (has both), वि. र. p. 524 (has both and reads स्वकुलात्तथा); परा. मा. III. p. 548 has 899 and reads लब्धं पितृकुलात्तथा, व्य. म. p. 153 and वि. चि. p. 139 have 899 only and read यल्लब्धं स्वकुलात्तथा, मिता० on या II. and 144 स. वि. p.380 (have 899 and लब्धं पितृकुलात्तथा), वीर० p.690 has 899 and reads as व्य.म. does. अपरार्क p.752 and स्मृतेच० III. p.652 read one verse as विवाहाः...स्त्रिया। भर्तुः पित्रोः सकाशाद्वा अन्वाधेयं तु तद्भृगुः ॥

901 मिता० on या. II. 143, वीर० p. 690, व्य. म. 155, परा. मा. III. p. 549, अपरार्क p. 751. दायभाग p. 76 reads भर्तुः सकाशात्.

902 स्मृतिच० III. p. 652, परा. मा. III. p. 548, व्य. म. p. 154.

903 स्मृतिच० III p. 653, परा. मा. III. p. 549, p. व्य. म. p. 154, वीर० p. 688.

प्राप्तं शिल्पैस्तु यद्वित्तं प्रीत्या चैव यदन्यतः ।
भर्तुः स्वाम्यं तदा तत्र शेषं तु स्त्रीधनं स्मृतम् ॥९०४॥
सौदायिकं धनं प्राप्य स्त्रीणां स्वातन्त्र्यमिष्यते ।
यस्मात्तदानृशंस्यार्थं तैर्दत्तमुपजीवनम् ॥ ९०५ ॥
सौदायिके सदा स्त्रीणां स्वातन्त्र्यं परिकीर्तितम् ।
विक्रये चैव दाने च यथेष्टं स्थावरेष्वपि ॥ ९०६ ॥
भर्तृदायं मृते पत्यौ विन्यसेत्स्त्री यथेष्टतः ।
विद्यमाने तु संरक्षेत् क्षपयेत्तत्कुलेऽन्यथा ॥ ९०७ ॥
अथ चेत्स द्विभार्यः स्यान्न च तां भजते पुनः ।
प्रीत्या निसृष्टमपि चेत्प्रतिदाप्यः स तद्बलात् ॥ ९०८ ॥
ग्रासाच्छादनवासानामाच्छेदो यत्र योषितः ।
तत्र स्वमाददीत स्त्री विभागं रिक्थिनां तथा ॥ ९०९ ॥
लिखितस्येति धर्मोयं प्राप्ते भर्तृकुले वसेत् ।
व्याधिता प्रेतकाले तु गच्छेद्बन्धुजनं ततः ॥ ९१० ॥
न भर्ता नैव च सुतो न पिता भ्रातरो न च ।
आदाने वा विसर्गे वा स्त्रीधने प्रभविष्णवः ॥ ९११ ॥
यदि ह्येकतरोप्येषां स्त्रीधनं भक्षयेद्बलात् ।
सवृद्धिकं प्रदाप्यः स्याद्दण्डं चैव समाप्नुयात्॥ ९१२ ॥

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904 स्मृतिच० III. p. 654, परा. मा. III. p. 550, व्य. म. p. 154, वीर० p. 689, दायभाग p. 76.

905 अपरार्क p. 752, स्मृतिच० III. p, 654, परा. मा. III. p. 549, वि. चि. p. 139 (reads दत्तं तत्प्रजीवनं), वीर० p. 691, दायभाग p. 76 (reads तैर्दत्तंतत्प्रजीवनम्).

906–907 स्मृतिच० III. p. 655 (both), अपरार्के p. 752 (has only 906), दायभाग pp. 76 and 73,वि. चि. pp. 139-140 (has both) ,वीर० p. 691 and व्य. म. p. 155 (have only 906), वि. र. pp. 510-511.

908–909 अपरार्क p. 755 (reads आदधीत), दायभाग p.78 (reads विसृष्टमपि), स्मृतिच० III. p. 658, वीर० p.692,वि. र. p. 514.

910 अपरार्के p. 755 (first half only), वि. चि. p. 141, वि. र. p. 514 (has whole verse).

911–913 दायभाग p. 78 and अपरार्क p. 754 (read मूलमव and यदासौ), स्मृतिच० III. p. 656, व्य. मा. p. 286 (has 911-912), व्य.म. pp.

तदेव यद्यनुज्ञाप्य भक्षयेत्प्रीतिपूर्वकम् ।
मूल्यमेव प्रदाप्यः स्याद्यद्यसौ धनवान्भवेत् ॥ ९१३ ॥
व्याधितं व्यसनस्थं च धनिकैर्वोपपीडितम् ।
ज्ञात्वा निसृष्टं यत्प्रीत्या दद्यादात्मेच्छया तु सः॥९१४॥
जीवन्त्याः पतिपुत्रास्तु देवराः पितृबान्धवाः ।
अनीशाः स्त्रीधनस्योक्ता दण्ड्यास्त्वपहरन्ति ये ॥९१५
भर्त्रा प्रतिश्रुतं देयमृणवत्स्त्रीधनं सुतैः ।
तिष्ठेद्भर्तृकुले या तु न सा पितृकुले वसेत् ॥९१६॥

(मृतायाः स्त्रिया धनाधिकारिणः)

भगिन्यो बान्धवैः सार्धं विभजेरन्सभर्तृकाः ।
स्त्रीधनस्येति धर्मोऽयं विभागस्तु प्रकल्पितः ॥ ९१७॥
दुहितॄणामभावे तु रिक्थं पुत्रेषु तद्भवेत् ।
बन्धुदत्तं तु बन्धूनामभावे भर्तृगामि तत् ॥ ९१८ ॥
पितृभ्यां चैव यद्दत्तं दुहितुः स्थावरं धनम् ।
अप्रजायामतीतायां भ्रातृगामि तु सर्वदा ॥ ९१९ ॥
आसुरादिषु यल्लब्धं स्त्रीधनं पैतृकं स्त्रिया ।
अभावे तदपत्यानां मातापित्रोस्तदिष्यते ॥ ९२० ॥

155-56, वीर० p. 692, व्य. वि. p. 380 (has 912-913), वि. र. p. 513.

914 अपरार्क p. 755, स्मृतिच० III. p. 658, वि. चि. p. 141, वि. र. p.513.

915 अपरार्क p. 752.

916 स्मृतिच० p.III. 659 (first half only), वि. चि. p. 142, वि. र. p. 514 (कुले जातु न या पितृ०).

917 अपरार्क p. 721, स्मृतिच० III. p. 661 and 667, वि. चि. p. 142, वीर० p. 695 (first half), वि. र. p. 518.

918 अपरार्क pp. 721 and 753, वि. चि. p. 143, स्मृतिच० III. p. 664, वीर० p. 697 (has first half only and reads पुत्रस्य), वि. र. p. 518, दायभाग p. 95 (latter half only).

919 दायभाग p. 92 (ascribes to वृद्धकात्यायन), वीर० p. 704 (reads अतीतायामप्रजसि).

920 स्मृतिच० III. p. 665, परा. मा. III. p. 554.

(अपुत्रधने पत्न्यादयो धनाधिकारिणः)

अपुत्रा शयनं भर्तुः पालयन्ती गुरौ स्थिता ।
भुञ्जीतामरणात्क्षान्ता दायादा ऊर्ध्वमाप्नुयुः ॥ ९२१ ॥
स्वर्याते स्वामिनि स्त्री तु ग्रासाच्छादनभागिनी ।
अविभक्ते धनांशं तु प्राप्नोत्यामरणान्तिकम् ॥ ९२२ ॥
भोक्तुमर्हति कृत्तांशं गुरुशुश्रूषणे रता ।
न कुर्याद्यदि शुश्रूषां चैलपिण्डे नियोजयेत् ॥ ९२३ ॥
मृते भर्तरि भर्त्रंशं लभेत कुलपालिका ।
यावज्जीवं न हि स्वाम्यं दानाधमनविक्रये ॥९२४॥
व्रतोपवासनिरता ब्रह्मचर्ये व्यवस्थिता ।
दमदानरता नित्यमपुत्रापि दिवं व्रजेत् ॥ ९२५ ॥
पत्नी भर्तुर्धनहरी या स्यादव्यभिचारिणी ।
तदभावे तु दुहिता यद्यनूढा भवेत्तदा ॥ ९२६ ॥
अपुत्रस्याथ कुलजा पत्नी दुहितरोपि वा ।
तदभावे पिता माता भ्राता पुत्राश्च कीर्तिताः ॥९२७॥
विभक्ते संस्थिते द्रव्यं पुत्राभावे पिता हरेत् ।
भ्राता वा जननी वाथ माता वा तत्पितुः क्रमात् ॥
अपचारक्रियायुक्ता निर्लज्जा वार्थनाशिका ॥ ९२८ ॥

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921 दायभाग p. 171, स्मृतिच० III. p. 677, स. वि. p. 410, वि. चि. p. 140, वीर० p. 627.

922-923 स्मृतिच० III. pp. 678-679, स. वि. pp. 410-411 (reads अविभक्तधनांशं), व्य. म. pp. 139-140 (reads चैलं पिण्डं), वीर० pp. 654-655 (reads धनांशे तु).

924-925 व्य. म. 138, वीर० p. 626.

926 मिता० on या. II. 135, स्मृतिच० III. p. 686 (reads यद्यनूढाप्रतिष्ठिता), मद. पा. p. 672, परा. मा. III. p. 524, व्य. म. p. 141, स. वि. p. 412, वीर० p. 631.

927 मिता० on या. II. 135 (reads अपुत्रस्यार्यकुलजा), स्मृतिच० III. p. 693, परा. मा. III p. 526, व्य. म. p. 141 (अपुत्रस्यास्य).

928 मिता on या. II. 135, अपरार्क p. 745, स्मृतिच० III. p. 690, परा. मा. III. p. 532, वि. चि. p. 154, वीर० p. 633.

Some Abbreviations employed in the Translation and Notes.

Apar. = Aparārka's com. on Yājñavalkya.

Bṛ. = Translation of Bṛhaspati by Dr. Jolly in the Sacred Books of the East Series, vol. 33.

D. B. = Dāyabhāga.

Kāt. = Kātyāyana.

Kauṭ. = Arthaśāstra of Kauṭilya (text, ed. in 1919 by Dr. Sham S'astri and translation by him in 1915).

Kul. = Kullūka's commentary on Manusmṛti.

Mit. = Mitākṣarā of Vijñāneśvara.

Nār. = Translation of Nārada-smṛti by Dr. Jolly in Sacred Books of the East Series, vol. 33.

Par. M. = Parāśaramādhavīya.

Sar. = Sarasvatīvilāsa (text).

Sm. C. = Smṛticandrikā (text, Mysore edition).

V. C. = Vivāda-cintamaṇi

Vi. = Viṣṇu-dharmasūtra.

Vir. = Vīramitrodaya (text ed. by Jivānanda).

Viś. = Viśvarūpa's commentary on Yājñavalkya.

V. M. = Vyavahāramayūkha of Nīlakaṇṭha (text, &c. ed. by me).

V. R. = Vivādaratnākara (text).

Vy. Māt. = Yyavahāramātṛkā of Jīmūtavāhana.

Yāj. = Yājñavalkya-smṛti.

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[illegible] = Dattakacandrikā [illegible].

[illegible] = [illegible] (Edited in 1919 by Dr Shama Shastri and translated again in 1915).

[illegible] = [illegible] commentary on Manusmṛti.

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Nār. = Translation of Nārada smṛti by Dr. Jolly, in Sacred Books of the East Series, vol. 33.

[illegible] M. = [illegible].

[illegible] = [illegible].

[illegible] C. = [illegible] (Mysore edition).

[illegible] C. = [illegible].

[illegible] = [illegible].

[illegible] = [illegible] by [illegible].

[illegible] = [illegible] commentary on Yājñavalkya.

[illegible] M. = [illegible].

[illegible] = [illegible].

[illegible] = [illegible] of [illegible].

Yāj. = Yājñavalkya-smṛti.

Kātyāyana on Vyavahāra

(*The qualities of a king*)

1--2. The king should be disciplined, endowed with (the study of) the *s'āstras*, possessed of a treasury and of valour, well-disposed towards brāhmaṇas, generous by nature and devoted to truth and *dharma*. (He should be) free from haughtiness, harassment (of subjects), wickedness, rashness and irascibility, (he should be) ready-witted, full of humility (and yet) high-soaring (in aims), engaging (readily) in conversation and pleasing in appearance.

3. Glory very much resorts (to a king) whose senses are under his control, who can curb himself, who wields (the rod of) punishment for those who fall victims to temptations, who does (everything) after deliberation, who is extremely steady.

(*Duties of kings*)

4. By reason of their being endowed with an abundance of valour, learning and wealth and particularly on account of the supreme power (they wield), the minds of kings always go astray (even) on the slightest cause (or impulse).

5. Therefore brāhmaṇas should always enlighten the mind (of the king) as to the duties of the king ; he (the king) should not transgress the highly purifying and holy dicta of the smṛtis.

6. The gods became denizens of heaven by the power of the sounds of the *Veda*; even they, being gratified by the honour paid to brāhmaṇas (by the king), become more delighted there (i.e. in heaven).

7. Therefore kings should ever assiduously honour the brāhmaṇas; by this he again and again (gains) the position of being Indra and of being the lord of men.

8. The chief of the gods (viz. Indra) coming down from heaven stands (before people) in the form of the king; he (the king) should ever do that whereby he would attain to the position of him (i. e. of Indra).

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3. ' Atyantam ' may also be connected with 'niṣevate' and then means ' till his last days. '

8. Compare Manu VII. 4-8.

9. Kings who abide by the duties peculiar to themselves attain to the position of Indra; but those (kings) whose actions go astray (from the path of dharma) have to reside in the *Avīci* hell (after death).

10. That king, who gives way to (sudden) wrath without proper thought, no doubt would reside in an horrible hell for half a *kalpa*.

11. He (the king) should appoint a minister who is a brāhmaṇa, is endowed with these qualities, who is (always) absorbed in (state) business, who is devoted to the king and who is the best of his family.

12. Where the ministers, the *sabhyas* (members of the assembly of justice) and physicians are given to speaking what is agreeable (to the king), the king would there be soon deprived of his kingdom, of *dharma* and of happiness (respectively).

13. He (the king) should not direct his wrath towards them (ministers, *sabhyas*, and physicians) when they tell him (the truth), since these must always tell the king what is proper and what is firmly fixed.

14. Where the king himself looks into all actions according to the dictates of *dharma*, there the people behave well and reside in happiness.

15. Constant protection of the subjects, eradication of evil-doers, honouring brāhmaṇas,—for these purposes the king was made.

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9. 'Avīci' is one of the 21 hells prescribed for sinners. Vide Yāj. III. 222-225 and Vi. 43. 1-22.

10. Read 'narake' for 'narakam'. 'Kalpa' is an enormous period. It is a day of Brahmā and is equal to a thousand divine *yugas*, each divine *yuga* being equal to 12000 human years. Vide Manu I. 68-72.

11. 'Endowed with these qualities.' Probably this refers to the qualities of the king enumerated above.

12. If the minister were to give such advice as would be agreeable to the king and not what would be of real benefit to the state, the king would lose his kingdom. Similarly if the *sabhyas* were to decide according to the whims of the king, they would be perpetrating injustice (i. e. he would lose dharma). If physicians were to prescribe what was agreeable to the king, his health and happiness would suffer.

15. Compare Manu VII 88 and IX. 253 and Yāj. I. 323. The Kauṭilīya contains a special *adhikaraṇa* (4th) on kaṇṭakas'odhana.

16. The king is declared to be the lord of the land, but never of other kinds of wealth ; therefore he should secure the sixth part of the fruits of land but not otherwise at all.

17. Since (human) beings reside on it (on land), their ownership thereof has been declared. The king's ownership is restricted to taking one-sixth as a tax, since the latter is dependent on good and evil portents (or natural phenomena and calamities of storms, rains, locusts etc).

18. That king, who, giving up greed, acts in this manner, is blessed with sons and his domain and treasury prosper.

19. The king, who unjustly takes from his kingdom taxes, fines, share of crops and tolls, incurs sin.

20. He (the king) should discard the teachings of politics and resort to the dictates of dharmas'āstra (sacred law).

21. Even when the king is at fault, (the conqueror) should not ruin the country (for the vanquished king's faults), since he (the vanquished king) does not start on (his career of) wrong-doing with the consent of his subjects.

22. Whatever (gift) a king offers in a proper manner to a suppliant without distress (to himself), that gift saves him ; such a gift made for the purpose of (accumulating) merit becomes enduring (in its results).

23. Whatever is gained by kings after justly attacking and conquering their enemy, is untainted and fit to be bestowed (in gift) and not anything else which is acquired in a different way.

16-17. The idea underlying these verses seems to be that the king is the owner of all land in the state; therefore he is entitled to demand a sixth part of the produce of the land. The actual cultivators of the soil have only a qualified ownership over land, which they are said to own because they reside on it and produce crops. The latter half of 17 is difficult to construe. The translation above is only tentative. According to the V. M. the king was not the owner of the soil (p. 91 text). Kātyāyana's view seems to be the same as that embodied in section 37 of the Bombay Land Revenue Code.

20. This embodies the rule of conduct in the case of conflict between the teachings of *arthas'āstra* and *dharmas'āstra*. Vide Yāj. II. 21, Nār. I. 39, p. 15 and Āp. Dh. S. I. 9. 24. 23. for a similar idea. Kauṭilya also says: शास्त्रं विप्रतिपद्येत धर्मन्यायेन केनचित् । न्यायस्तत्र प्रमाणं स्यात्तत्र पाठो हि नश्यति ॥ p. 150 (text).

24. The king should appoint as his *purohita* (a family priest) a brāhmaṇa who is (highly) spoken of (by the learned), who is well-disposed, endowed with perfect (Vedic) learning, who is not greedy and who speaks the truth.

(Definition of Vyavahāra)

25. When the ramifications of right conduct, that together are called dharma and that can be established only with effort, have been violated, the dispute (in a law court between plaintiff and defendant) which springs from what is desired to be proved (such as a debt), is said to be *vyavahāra*.

26. 'Vi' is employed in the sense of 'various,' 'ava' in the sense of 'doubt', 'hāra' means 'removing' ; 'vyavahāra' is so called because of its removing various doubts.

27. The king should not, through being won over or through greed of money, take upon himself the disputes of men

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24. Compare the qualifications of a *purohita* in Kauṭilya (p. 15) and Yāj. I, 313, in both of which the word ' uditoditam ' occurs and is variously explained. Mit. says ' endowed with qualities spoken of in the s'āstras, ' while Aparārka explains ' in whom are born the qualities that are spoken of as required in ministers. '

25. This verse gives the conventional (rūḍha) sense of ' vyavahāra ' and the next verse gives its etymology. Some of the words are variously explained. Apar. explains ' dharmākhya ' as ' which sets forth dharma ' and he refers effort (prayatna) to the labour involved in proving one's claim by means of documents, witnesses &c. The Par. M. explains ' nyāya ' as meaning ' worldly conduct approved of by respectable people ' and ' vistara ' as ' decision based upon reasoning, ' ' prayatna ' as ' effort to do what is prescribed and to avoid what is forbidden, ' sādhya ' as ' wealth of which a person is robbed and which he wants to recover'; the Vir. takes 'nyāya' to mean 'pramāṇa (i. e. śruti and smṛti), takes ' nyāyavistare ' as qualifying ' dharmākhye ', the meaning being ' when dharma which is unfolded (i.e. under stood through) by s'ruti and smṛti is obscured.' The Vir. (p. 6) offer another explanation, ' when the pramāṇas, s'ruti and smṛti and others which expound dharma are shattered (by delusion or carelessness &c.) Hārīta defines vyavahāra similarly ' that is declared vyavahāra, when the attainment of one's dharma and the avoidance of the dharma of another is brought about by nyāya ' (vide Sm. C. III. p. 2, Par. M. III. p. 7., Vir. p. 6).

27 Compare Manu, VIII. 43 for a similar precept. Sm. C. (III. p. 61) ascribes this verse to Nārada. Pitāmaha says that the king was to act *suo motu* without a private man's complaint in the case of 50 *chalas*, 10 *aparādhas* and 22 *padas*. The chalas included mischief on the royal road, abuse of the king ; the aparādhas included disobedience of royal edicts, mixture of castes, abortion &c. ; the padas included incendiarism, mischief to embankments &c. Vide Sm. C. III. pp. 62-65.

when they do not themselves contend (in a court).

28. He, who causes (physical) injury or does not give back through wickedness what he owes to (his creditor) even though the latter beseeches (him), should be dragged by order of the king.

29. (Vyavahāra) has two aspects, which come to be eighteen owing to the manifoldness in the objects to be secured (by litigation); the eighteen again become 1008 owing to the multifariousness of the matters to be proved.

30. What the plaintiff complains of (before the court) is the root of the litigation; the two springs (of vyavahāra) are said to be non-rendition of what is due and injury.

31. This (*vyavahāra*) is said to have four feet i. e. stages viz. the plaint, the defence (or reply), the deliberation (as to burden of proof) and the adducing of proof.

32. Dharmas'āstra (sacred law) and Arthas'āstra (science of politics and government) are declared to be the two main branches (of vyavahāra) and victory and defeat are declared to be the two fruits.

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29 The two aspects of *vyavahāra* are civil (*dhanamūla*) and criminal (*himsāmūla*); the former contain 14 titles of law and the latter 4. These eighteen titles can be subdivided into 132, according to Nār. (p. 12). Vide also Bṛ. p. 283 verse 5 for division into civil and criminal disputes.

30 Compare बृहस्पतिः 'हिंसां वा कुरुते कश्चिद्देयं वा न प्रयच्छति । द्वे हि स्थाने विवादस्य तयोर्बहुतरा गतिः ॥' (स्मृतिच. (III p. 2); vide Bṛ. p. 283, v. 4.

31 According to Bṛ. the four pādas are plaint, reply, *kriyā* (adducing of proof), and decision (vide Apar. p. 616), while the Vīr. quotes (p. 59) another verse of Bṛhaspati's where the four pādas are bhāṣā (plaint), uttara, kriyā and pratyākalita (Bṛ. p. 289 verse 1). The meaning of pratyākalita according to the Vīr. and Apar. is 'deliberation of the judge and assessors as to where the *onus probandi* lies and as to the method of proof.' According to the Mit. (on Yāj. II. 8 *pratyākalita* in this sense is not a *vyavahārapāda*, since it is a function of the judge only and has no direct relation to the litigants, but *pratyākalita* in the sense of 'decision of the suit' may be a vyavahārapāda. According to Nār. (p. 7, v. 10) the four feet of vyavahāra are : dharma, vyavahāra, caritra, royal edict.

32 Verses 30 and 32 seem to refer to the dictum of Hārita about vyavahāra 'एकमूलो द्विस्थानो द्विस्कन्धो द्विफलस्तथा' (स्मृतिच. III. p. 27).

33. That man is declared to be *stobhaka* who with a sole eye to money and without being urged by the king first informs (the king) of a matter which is censured by śāstra (sacred law).

34. That man is declared to be *sūcaka* who is appointed by the king himself for discovering the wrong-doing of others and who coming to know of it conveys it to the king.

(Comparative strength of dharma, vyavahāra, caritra and rājas'āsana)

35. In a dispute where the person guilty of wrong-doing accepts (confesses to) his responsibility for it and where the real owner of the money (in dispute) secures his wealth by the admission of the defendant the decision is by *dharma* (moral law) itself.

36. That is said to be *vyavahāra* (decision by judicial proof) where, for the purpose of deciding the causes (of litigants), those who are to execute the sacred law (i. e. the judge and assessors) put forward some principles of dharmaśāstra (viz. examination of plaint, reply, witnesses &c.).

33-34 A stobhaka is a private informant who gives information to the king for a reward, while a sūcaka is a servant of the king or an officer of the criminal intelligence department. These two verses have reference to *chalas, aparādhas and padas* as to which the king was to proceed *suo motu*. Read राज्ञाप्रचोदितः

85 Nārada (vide 31 above) spoke of vyavahāra as four-fold. But what he meant is made clear by Bṛhaspati 'धर्मेण व्यवहारेण चरित्रेण नृपाज्ञया। चतुष्प्रकारोऽभिहितः सन्दिग्धेर्थे विनिर्णयः'॥ स्मृतिच० III. p. 21. Vide Bṛ. p. 285 v. 18. 'Decision' is the fourth pāda of *vyavahāra* according to Bṛ. and this last can be arrived at in four ways viz. by dharma, by vyavahāra, by caritra and by rājaśāsana. When a person guilty of a crime (doṣa) admits his guilt (through repentance and on account of being afraid of sins) without fighting out the proceeding and when a defendant also admits in his reply his liability to pay, there the decision is said to be by dharma, as the admission is due to the desire to follow *dharma* and to the fear of *adharma*. Here there is no neccssity of proof, or usage, or royal edict. It is therefore that Nār. says 'तत्र सत्ये स्थितो धर्मो व्यवहारस्तु साक्षिषु। चरित्रं पुस्तकरणे राजाज्ञायां तु शासनम्॥'. This very verse occurs in Kauṭilya (p. 150 text) where we read चरित्रं संग्रहे पुंसाम्.

36 It is therefore that Nār. says that decision by vyavahāra rests on witnesses, as they are the principal instrument of proof. Compare Bṛ. p. 286 v. 22.

37. Whatever a person practises, whether it be according to dharma (the letter of the sacred law) or not, because it is the invariable usage in a country, is declared to be *caritra* (usage).

38. What a king establishes as dharma which is not in conflict with the smṛti rules on justice and with the usages of the country is a righteous royal edict.

39. Where a cause is tried by (an appeal to) reasoning and ordeals are eschewed, there (decision by) *dharma* is overruled by *vyavahāra* and not in other cases.

40. (The king) should not disregard the fixed rules of conduct among those who belong to the *pratiloma* castes and among inhabitants of forts (or inaccessible mountain places), even if they are opposed (to rules of smṛti).

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87 Certain usages observed by the people of a country may not be in accordance with the rules contained in certain dharmaśāstras (such as marriage with a maternal uncle's daughter); yet if the question of the validity of such a marriage comes before the court, it is to be decided according to usage and not according to dharmaśāstra. Here a decision based on usage (caritra) is itself called *caritra*. Vide Manu I. 108 on ācāra (usages) being transcendental law and Yāj. I. 343 on the king's duty to respect the usages of a conquered country. Nārada's text as read by Caṇḍeśvara 'चरित्रं पुस्तकरणे' means 'documentary evidence', but Par. M. (III. p. 10) reads चरित्रं तु स्वीकरणे, which means the same thing as above. Vide Vir. p. 9 for criticism of these two readings. व्यास also says 'देशस्थितिः पूर्वकृता चरित्रं समुदाहृतम्' (स्मृतिच० III. p. 23) and पितामह also says 'यद्यदाचरति श्रेष्ठो धर्म्यं वाधर्म्यमेव वा । कुलादिदेशाचरणाच्चरित्रं तत्प्रकीर्तितम् ॥' (स्मृतिच० III. p. 58).

38 A decision in a cause arrived at by the king's own intellect and not in conflict with Smṛti or usages is said to be a decision by royal edict.

39 These and the following verses illustrate the dictum of Nārada about the four that each succeeding one is stronger (or superior to) than each preceding one (उत्तरः पूर्वबाधकः). Vide Nār. p. 7 v. 10. Kauṭ. (p. 150 text) has the same verse. Where the decision is not given on the admission of the defendant or on trial by ordeal, but according to the methods of proof (such as witnesses, inference) laid down in dharmaśāstra, the decision is by means of vyavahāra. बृहस्पति says 'शास्त्रं केवलमाश्रित्य क्रियते यत्र निर्णयः । व्यवहारः स विज्ञेयो धर्मस्तेनावहीयते' (स्मृतिच० III. p. 24, वीर० p. 12). Vide Bṛ. p. 286 v. 25.

40-41 When a girl of a higher caste marries a male of a lower caste, the progeny is called pratiloma. Vide Manu X. 11-41 and Yāj. I. 93-95.

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41. When a king gives a decision in accordance with such rules of conduct (i. e. according to usage) then *vyavahāra* is overruled by *caritra*.

42. Where kings consider that an usage is opposed to sacred law, there the usage is overruled by the king's command.

43. Each succeeding one (out of the four viz. dharma, vyavahāra, caritra and royal edict) when possessed of these characteristics overrules (each preceding one); where (each succeeding one) overrules (preceding one) in other circumstances, there justice (dharma) is destroyed.

44. If a king decides (a case) by his own fiat where there is a text (of the śāstra capable of deciding it), it leads him away from heaven, it causes ruin to people, it brings danger (to the king) from the army of his enemy and it strikes down the roots (lit. the seed) of his (long) life.

45. Therefore a king should decide the causes (of people) according to the rules of *s'āstra*; but in the absence of sacred texts, he should carry out (judicial administration) according to the usages of the country (lit. the views of the country).

46. Whatever course of conduct is in vogue in a country, is of long duration and is not opposed to the vedas and smṛtis, is said to be the usage of the country.

47. (In disputes) between the residents of the same country or the same capital or the same hamlet of cowherds and of the same town or village, (the decision should be) by their own

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For the idea in these verses, compare बृहस्पतिः 'देशस्थित्यानुमानेन नैगमानुमतेन वा । क्रियते निर्णयस्तत्र व्यवहारस्तु बाध्यते ॥' (स्मृतिच० III. 25, वीर 7 p. 12 and Bṛ. p. 287 v. 26).

42 Where usages are opposed to smṛti and it is likely that enforcing them would engender discontent and commotion among the people, the king's command may supersede such usages. It is therefore that in verse 136 below a plaint which is opposed to the interest of the nation is said to fail.

43 Nārada's dictum (उत्तरः पूर्वबाधक) quoted on verse 39 is not a universal rule. It is rather an exception. This is made clear by this verse that where judicial procedure can properly be carried out, or where there are local usages (not opposed to the country's interest &c.) the king cannot interfere by an edict.

45 Compare Manu 8. 3.

47 This lays down the rule of decision in case of the conflict of

conventional usages, but (in disputes) between these and others (the decision must be) in accordance with the sacred texts (dharmaśāstra).

48-50. Whatever conventions are settled in accordance with the consent of the (people of a) country should always be preserved in writing sealed with the royal seal. Such conventions should be sedulously upheld like (the dictates of) sacred law and (the king) should decide (disputes) after considering them. Whatever (trade) conventions are reduced to writing by traders as fit to be carried out, those must be given effect to and (the king) should not start anything contrary to them.

51. Whatever is decided upon (once by the king) as the authoritative usage of a country and whatever he does as approved of by the vedas and smṛtis though not in vogue (as a custom or convention), that should not be again reversed (by the king); he should avoid what is not in accordance with smṛti rules.

(The hall of justice)

52. That place, where the decision of the truth of the plaint (lit. the cause or root of dispute) is carried on by a consideration of the (rules of the) sacred law, is (called) the Hall of Justice (dharmādhikaraṇa).

53-54. The king, having risen in the morning, performed ablutions, being composed in mind, having shown due honour to his *guru*, his astrologer, physicians, deities, brāhmaṇas, and the family priests and having saluted the elders and the rest and being decked with fine flowers, ornaments and apparel, should enter the court room that has a pleasing appearance.

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various systems of law, where the parties to the litigation do not belong to the same country, town or village.

48-50 These principles applicable to the usages of a country and the custom of a trade also hold good in the case of the usages of a caste or family, a guild or corporation &c. Vide Pitāmaha 'ग्रामगोष्ठ पुरश्रेणीसार्थ सेनानिवासिनाम् । व्यवहारश्चरित्रेण निर्णेतव्यो बृहस्पतेः' ॥ (स्मृतिच. III. p. 58). Vide Bṛ. p. 287 v. 28 and Manu 8. 41. Verse 85 below should have been placed after these.

53-54 Vide Bṛ. p. 280 verses 21-22 for the same verses.

55. The king, dressed in a simple (subdued, not gaudy) manner, having gone to the court-room and being composed in mind, should look into the causes of litigants while sitting or standing facing the east, along with persons learned in the three vedas, elders and councillors well-versed in statecraft.

56. The king who looks (into causes) according to the sacred law along with the judge, the ministers, the brāhmaṇas, the family priest and the assessors (sabhyas) attains heaven.

57–59. (The court-room) should be presided over by incorruptible and diligent assessors (sabhyas), by wise brāhmaṇas who are (perform the work) hereditary, who are well-versed in the meaning of sacred texts and the science of politics, by a few merchants who form a group (or guild), who are men of high family, character, well advanced in years, are endowed with good conduct and wealth and are free from malice. In that (court-room) merchants are to be appointed to listen (to the cause) and to look to the administration of justice.

(*Time of holding the court*)

60. The king, who strikes down his enemies, should decide the causes in the court-room in the first half of the day according to the course laid down in the sacred texts (śāstra).

61. Those three parts of the day after omitting the (first) eighth part of the day are declared to be the best time

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55 Compare Manu 8. 1-2. Kul. explains that the king may decide while standing if the matter is simple or slight. The Vy. Māt. explains that the king's attire should be simple, as otherwise the parties might be dazzled by his splendour and might forget what they had to say. Compare Bṛ. p. 280 v. 20.

57-59 The Mit. notices that there is a distinction between sabhyas and brāhmaṇas ; the former are specially appointed by the king, the latter are not. The Mit. says that, according to Manu 8. 10–11, the sabhyas were to be three, while according to Bṛ. they were to be 7, 5 or 3. Vide Bṛ. p. 278 v. 11. Vide Yāj. II. 2 for qualifications of sabhyas. The Vir. explains कुलभूतै: as 'old.' The merchants are to be other than the sabhyas and were to be associated with the judge and sabhyas according to Mit. for placating the populace.

61 The whole day (of 30 ghaṭikās or 12 hours) is to be divided into 8 parts, then the first part (or 1½ hours) is to be set apart (for daily duties of bath, worship &c.) and the three parts (4½ hours) up to noon were to be devoted to hearing the causes. Kauṭ. (text p. 37 and tr. p. 42)

for (looking into) disputes according to the sacred texts.

62. The three parts of the day after the first eighth part are recognised in the śāstra by the wise as the time for (administration of) justice.

(*The judge*)

63–64. When the king cannot himself decide the causes (of litigants), then he should appoint thereto (in the court) a brāhmaṇa learned in the various śāstras, who is vigilant and well-born, who is impartial, who does not cause disgust to the people, who is steady (or incorruptible), who is afraid of the next world, most devoted to observance of śāstric rules of conduct, assiduous and free from irascibility.

65. The king should appoint for (deciding) disputes (a judge) who is not cruel, who is sweet-tempered, kind, who is hereditary, clever, energetic and not greedy.

66. One who has studied only a single branch of learning would not know how to decide causes; therefore kings should appoint for (deciding) disputes one who knows many śāstras as the best person.

67. Where a brāhmaṇa (endowed with the qualities enumerated) cannot be had, (the king) should appoint a Kṣatriya or a Vaiśya proficient in the sacred law, but he (the king) should carefully avoid a śūdra (as a judge).

68. Whatever is done by others (as judges) than these must be regarded as done wrongly, even if they be officers (of the king) and even if by chance it is done (the decision is) according to the sacred texts.

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divides the king's day into eight parts, but assigns only the 2nd part and not 3rd and 4th also as in Kāt.) for looking into the causes of citizens and of people in the country.

62. This means the same thing as the preceding. It is unlikely that the original Kātyāyana contained both verses. Both are well authenticated; so they probably represent two versions of the same verse.

63 Compare Manu 8. 9 and Yāj. II. 3.

65 Read क्रमायात: for क्षम।यात: in the text.

67 Compare Manu 8. 20.

68 The juirisdiction to decide cases rests with judges and sabhyas who belong to the brāhmaṇa and the two other castes. If one who is not appointed a judge, but is an officer of the army were to decide a dispute even according to śāstra that would be a decision without jurisdiction and so a nullity, just as in modern times if a court having no jurisdiction at all over the matter in dispute were to decide it, the decision could be a mere nullity, even if on merits the decision may be found to be right.

69. It is settled that one who asks questions with reference to the matter in dispute is a *'prāḍ'* (a questioner); he, who distinguishes in that (dispute as to what party is in the right), is thence called ' prāḍvivāka' (a judge).

70. If the judge were to hold conversation in private with a party while the matter (in dispute) is undecided, he becomes liable to be punished and also particularly the assessors (if they do the same).

[*The Members of the Court*)

71. The best of brāhmaṇas, who are not avaricious, who possess wealth, who know the sacred law, who (always) speak the truth and are proficient in all śāstras, should be made *sabhyas* (assessors).

72. Where the *sabhyas* decide (a matter) in violation of the sacred law there *dharma* (justice) being overcome by *adharma* (injustice) does undoubtedly destroy (the king) .

73. Where justice is slain by injustice and where truth is strangled by untruth while the sabhyas look on (with apathy), there the sabhyas (members of the court)are themselves destroyed.

74. The members of the court should not connive at the king when he begins to act unjustly ; if they do so, they along with the king fall headlong into hell.

75. Those members of the court, who follow (approve of) the king who proceeds in an unjust manner, also become participators therein (i. e. in the sin due to unjust decision); therefore the king should be awakened by them (to the right course).

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69 This gives the etymology of the word प्राड्विवाक. The judge asks the plaintiff what his case is and the defendant what his reply is and then finds out which of them is in the right. Therefore प्राड्विवाक is a compound of two words प्राड् (from प्रच्छ् to ask) and विवाक (from विच् with वि). It seems better to derive विवाक from वच् with वि, as the Vy. Māṭ. does in the alternative 'विचार्य वा जयपराजयरूपं विविधमर्थं वक्तीति विवाकः.' Compare Bṛ. p 278 v. 12 for derivation.

71 Comqare Bṛ. p. 279 v. 13, Nār. p. 37 verses 4-5.

73 This is the same as Manu 8. 14 and Nārada (सभालक्षणाध्याय 8). So it is likely that Kātyāyana embodied such a popular verse in his work.

75–76 There is no contradiction in these verses.The latter says that the sabhya should not then and there oppose the king's desire, but should at the moment mollify the king, while the former says that gradually the

76. Coming to know that the mind of the king is straying from the path of justice, a member of the court should then say what is agreeable (to the king) ; (by so doing) the sabhya would not incur sin.

77. A member of the court must certainly speak out words (decision) that are in accordance with the sacred law and the science of statecraft. If the king does not listen (to the advice of the sabhya), the sabhya would then be free from sin.

78. When a king directs (the judge or member of the court) to do injustice to (to give a wrong decision in the case of) disputants, then a member of the court should beseech the king (that his order will lead to injustice) and should turn him away from wrong-doing.

79. When a sabhya decides wrongly through affection, ignorance, greed, or infatuation, he should be punished; for he is in that case declared to be not a sabhya (i. e. unworthy to be a member of the court).

80. After correctly understanding how to decide the causes, a member of the court should announce (his decision); he should not announce (his decision) otherwise (i. e. without understanding); if he does so he is liable to a fine double (of what the defeated party in a cause has to pay).

81. Whatever loss is caused (to a litigant) through the fault of the sabhya, the latter should be ordered to make it good ; but (the king) should not disturb the decision of the matter in dispute between litigants.

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king should be brought round to see the right path. The reading (in 75) 'बोधनीयः शनैर्नृपः' (the king should be gradually awakened to his duty) is therefore preferable.

77 Compare Nār. p. 37 verse 7 and p. 39 v. 15 and Manu 8. 19.

79-80 Compare Nār. p. 22 v. 67 and Yāj. II. 4. The Mit. on Yāj. II. 4 explains in this way. The words 'liable to a double fine ' do not mean ' double of the matter in dispute, ' since in certain cases (such as rape, abduction &c.) the matter in dispute is incapable of valuation.

81 This applies where after a decision is pronounced, it is found that a wrong decision was given by a corrupt assessor. In such a case the decision stands, but the erring assessor has to make good the loss occasioned by his decision.

(Gradation among those who decide causes)

82. Family council, corporations, assemblies, one appointed (as a judge) and the king ; these have the responsibility in (deciding) disputes. Each succeeding one out of these is superior to (each preceding one).

83. The king should investigate the causes of ascetics by those learned in the three Vedas only and also of those who are adepts in jugglery and in yogic practices and should not investigate them himself for fear that he may rouse their anger (against himself).

84. (The king) should give advice (admonition) to those who are of high caste and character, and to his *guru*, teachers and ascetics through one who is endowed with true knowledge (and not himself directly).

85. That is called family usage which has come down hereditarily in a family as the *dharma* to be observed (by members of that family) ; (the king) should preserve it (intact).

(Method of questioning the plaintiff)

86-88. (The king or judge) should question the litigant (who approaches) at the proper time (of the court), who bows (to the king or judge) and who stands before him ' what is your grievance, what is the injury done to you, don't

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82 Vy. Māt. ascribes this verse to Manu also. It is not found in Manu. It is Nar. I. 7 (vide p. 6). Yāj. II. 30 is a similar verse, where the word 'pūga' is used in place of 'gaṇa.' 'Kula' or family gatherings are explained by the Mit. as groups of agnatic and cognatic relatives, while Vy. Māt. explains as 'the family of the parties.' Mit explains 'śreṇi' as associations of persons following one trade whether they belong to the same caste or not (such as weavers, betel-nut sellers &c.), while Vy. Māt. explains as " associations of artisans and traders etc.; 'gaṇa' means 'assembly of brāhmaṇas etc,' according to Vy. Māt. and 'pūga' means according to Mit. ' assemblies of persons residing in one village or city, though of different castes and professions.' All these are like modern *pancāyats.* Compare Bṛ. p. 281 verses 28-30.

83 Compare Bṛ. p. 281 v. 27 for a similar rule. This verse occurs in Kauṭ. text p. 39.

84 Separate as संपन्नेन उपदेशं'.

86-88. The words 'किं कार्यं' and ' का पीडा ' respectively refer to civil and criminal matters. Vir. p. 52 explains that if the plaintiff were to reply that defendant does not return a debt given to him by the plaintiff in a former life, it is not a cause that can be entertained. ' The seal ' means

be afraid, speak out, man !'. The (judge) presiding in the court should ask ' by whom, where, at what time and why (was the grievance or injury caused).' When thus asked whatever he replies should be considered (by the judge) with the assessors and the brāhmaṇas and if the cause be judicially entertainable, then he (the judge) should deliver the (court) seal to the plaintiff for calling (the defendant) or he should order the (court's) officer (to call the defendant).

(*Substitutes or recognised agents of parties*)

89-90. A person though other (than the defendant,) if put forward by the defendant before the judge (as defendant) should be regarded as the defendant and he also who is accepted (by the plaintiff) himself (as the defendant). It is the right of the person charged (to give a reply) and not of another person, since the latter is unconnected (with the dispute); (but) even a stranger may be allowed (to have the right to defend) if he is put forward (as the defendant) by the person charged (by the plaintiff).

91. For whomsoever a man carries on a dispute (in a law court) whether the latter be appointed by the plaintiff or deputed by the defendant, the victory or defeat belongs to the former (and not to the representative).

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probably a sealed order or summons.' The court's officer (or bailiff) was called ' sādhyapāla.' Vide व्यास quoted in स्मृतिच॰ (III. 39) साध्यपालस्तु कर्तव्यो राज्ञा साध्यस्य साधकः। क्रमायातो दृढः शूद्रः सभ्यानां च मते स्थितः ॥' and Bṛ. p 279 v. 15, which says that he was to be appointed to summon parties and witnesses and to keep them in custody (when necessary). For the last verse, compare बृहस्पति ' यस्याभियोगं कुरुते तथ्येनाशङ्कयापि वा । तमेवाकारयेद्राजा मुद्रया पुरुषेण वा ॥ ' स. वि. p. 79 and स्मृतिच॰ III. p. 72.

89-90. See Order III of the Civil Procedure Code on recognised agents, some of the provisions of which are very similar to the following verses. The general rule is contained in the first half of verse 90, viz. defendant must answer the plaintiff in person; to this three exceptions are allowed; defendant may send some one as his deputy (2nd half of 90), the defendant charged by the plaintiff may put forward another person as the defendant, or the plaintiff may accept as the defendant another person. These verses and verse 92 forbid what is called in England champerty and maintenance.

91. This is the same as Nār. p. 29 verse 22. The appointment may be due to illness, or incapacity to argue one's case. This verse contains the germs of the modern profession of pleaders.

92. Slaves, menials, pupils, persons deputed, and relatives, these should not be punished when they speak (on behalf of another, their master etc.); any one other than these (if meddling in litigation) deserves punishment.

93-95. A representative (of plaintiff or defendant) is not allowed in (charges of) brāhmaṇa murder, drinking wine, theft, sexual intercourse with the wife of an elder (incest) and in other grave sins. A representative should not be given in man slaughter, theft, indecent assault on another's wife, eating forbidden food, kiddnapping of a maiden and intercourse with her, harshness (vākpāruṣya and daṇḍapāruṣya), counterfeiting coins and measures, and also in sedition ; but the man himself (the plaintiff or defendant) should engage in the dispute.

(Summons)

96. The king should not summon to appear in person those who are intent upon (engrossed in) performing religious rites for securing (heavenly) reward, persons who are ill, idiots, who are not at ease (owing to calamities) , who are under the influence of intoxicants, who are raving, who are despondent and women.

97. (The king should not summon) a young woman whose family is dilapidated, a lady of good family, a woman who is recently delivered, a maiden who is of a higher caste than the claimant, (since) these are declared to be under the tutelage of their kinsmen.

98. Summoning (in person) is allowed in the case of those women on whom the family depends, women who are

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92. Compare Nār. p. 29 verse 23.

93-95. The reading of Vy. Māt. would mean 'in mutual disputes between saṅghas (religious or other associations).' The Sm. C. reads 'in other disputes of a coarse kind' and says that verses 94-95 illustrate what are such disputes. Vide Vi. 34. 1. for atipātakas.

96. For the meaning of अभ्युदय compare वैशेषिकसूत्र 'यतोऽभ्युदयानिःश्रेयससिद्धिः स धर्मः.'

96. Sm. C. says that women who are dependent are meant here. Compare with this and the next Nār. pp. 18-19 verses 52-54 and Bṛ. p. 288 v. 34. The principle underlying verses 96 and 97 in regard to summoning women has been followed in sec. 132 of the Civil Procedure Code (Act. V of 1908).

unchaste, courtezans, women without family and degraded women.

99. A person who asserts his claim with arms in hand, without wearing an upper garment, with hair dishevelled, sitting down on a seat, or with his left hand, should be fined.

100. He, who when summoned, disregards the king's order (to appear before the court) though able to do so, should be fined by the king according to the method laid down in the (smṛti) injunction.

101. The fine should be fifty (paṇas) in the case of slight causes (when the defendent does not appear though summoned), two hundred as the minimum in the case of middling ones and in the case of heavy causes the fine should always be 500 (paṇas) at least.

102. Whatever figure is put down as the fine for any wrong must be understood as referring to paṇas (to be paid to the king) or their equivalent price.

(Restraint or arrest)

103. He, who, through bad disposition, causes injury or does not give what he is bound to give to one who requests him to do so, should be dragged (before the court) by the king's order.

104-105. After informing the king of the cause (matter in dispute) and when the matter affirmed (in the plaint) is beyond doubt, he (the claimant) should employ restraint (of the

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99. A claimant must approach the court in a decent manner. This verse is an expansion of the word प्रणत in verse 86 above.

101. Apar. explains that these are copper paṇas.

102. The reading 'śaktitaḥ' is better and means 'according to the ability of the person fined.'

103. 'Injury' refers to criminal matters and '*deyam*' stands for a ll civil disputes.

104. Vir. explains that when it is apprehended that some time would elapse before the summons from the king could be served on the defendant, the plaintiff should keep under restraint or arrest (called āsedha in Sanskrit) the defendant. Compare Nār. p. 17 v. 47. Āsedha (which means arrest or restraint by king's order' according to Mit.) according to Nār (p. 17. v. 48), was of four kinds: when the defendant is told 'don't go away even a step from this place till the decision' it is local restraint (स्थानासेध), when he is told 'you must present your

defendant) till the arrival of the summons. One who deserves to be arrested should be punished, if he breaks (the restraint) when he is arrested.

106. That man who restrains (the defendant) so as to prevent him from exercising his limbs or from talking and breathing freely, when the defendant does not deserve to be (so restrained), should be punished and not the (defendant) who breaks such restraint.

107-108. Those who have climbed up trees and mountains, those who are seated on elephants, horses, chariots and in boats and those who are under difficulties– all these should not be arrested by those (plaintiffs) who want to establish their claims; so also those who are afflicted with disease, those who are overwhelmed by calamities, those who are engaged in sacrifices, those who have not come out (of the litigation in which they are already engaged), the intoxicated, the lunatic and the idiot – these should not be arrested.

109. A husbandman (should) not be arrested at the time of the sowing season, nor a soldier at the time of (the marching of) the army, nor one who has gone after having promised (to return) nor should one who has fixed a time (for his appearance) be arrested in the interval (i. e. before that time).

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self on the 5th day of the month' (Sm. c.) or 'you must not do a certain thing for a certain time' (Vir.), it was temporary restraint (कालासेध), when told 'don't go on a journey till the decision' it is restraint of journey (प्रवासात् आसेध), when told 'don't do such and such an act e. g. exposing an article for sale' (Sm. C.) or 'don't do this or that act such as taking a bath' &c. (Vir.), it is restraint as to actions (कर्मणः आसेधः). If he disregarded these restraints he was liable to be punished. It will be noticed that 'āsedha' included several modern processes such as attachment or arrest before judgment (section 94 and Order 38 of the Civil Pro. Code) or temporary injunction (Order 39 of the Civil Procedure Code).

107–108. Compare Nār. pp. 18–19 verses 52-54, Bṛ. p. 288 verses 36-37.

108. 'Those who have not come out &c.' — Compare Yāj. II. 9. 'अभियोगमनिस्तीर्य नैनं प्रत्यभियोजयेत् । अभियुक्तं च नान्येन नोक्तं विप्रकृतिं नयेत्'॥ and Nār p. 19 v. 55 and Kauṭ. (text. p 149 'न चाभियुक्तेभियोगोऽस्ति.)' Compare sec 135 (2) of the Civil Procedure Code as to freedom of parties, their agents and witnesses from arrest while attending or going to and returning from a tribunal).

110. When the husbandman is ready to reap the crop, so also when the rainy season approaches, (the plaintiff) should not make (the defendant) engage in the dispute from the beginning (of the sowing of seeds) to the gathering (in of the crops). If (the plaintiff) arrests one who should not be arrested, the fixed rule is that he should be punished by the king.

111. The defendant when restrained by order of the king should stay (i. e. should not break the order of arrest) and the wise say that (when he is so arrested) others should not attack him (by another suit).

112-113 The king should make the plaintiff give as much subsistenee (lit. boiled rice) to the messenger, after the cause is finished, as is required for a day or two (that he spent in summoning and guarding the defendant &c) having regard to the time and place. Those who know the essence (of dharma) recognise that the subsistence (lit. food) due to the summoner in all cases depends upon the time, the place, the age (of the summoner) and the ability (of the parties).

(*Persons not acceptable as sureties*)

114-116. The master, an enemy, one authorised by the master, one who is under arrest, one fined, those who are accused (of grave sins), one who is a sharer in family property, an indigent person, those who are under a vow of perpetual studenthood, one who is appointed on the king's business, those

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109-110 Compare Bṛ. p. 288 verses 36-37.

112-113 Compare Kauṭ. (text. p. 149) who says that 'the wages for the puruṣa are one-eighth (of the fine or matter in dispute), that the subsistence on the way (for witnesses) depends on the value of the matter in dispute and that both these should be paid by the party that is chastised by the king.' The last means that the costs of the suit fall on the defeated party. Dr. Sham Shastry's translation (p. 190) 'fees for witnesses shall cover $\frac{1}{8}$ of the amount' is not correct, as 'puruṣa' does not mean 'witness,' but 'bailiff.' Vide notes on verses 86-88 above.

114-116 'Saṅs'ayastha' is explained as 'abhis'asta' which is explained by Haradatta as one guilty of the grave sins enumerated in Āpastamba-dharmasūtra I. 7. 21. 8.; 'rikthī' means 'one who has a share in ancestral wealth, such as a brother', 'atyantavāsinaḥ' is explained by the Mit. as 'naiṣṭhikabrahmacāriṇaḥ'. The Vir. p. 58 says that the Madanaratna read 'anyatra vāsinaḥ' which it explained as

who are ascetics (sannyāsins), one who is unable to pay (the money due or amount in dispute) to the creditor (or successful party) and fine equal to that (the amount in dispute) to the king, one whose father is living, so also one who incites (the party from whom surety is demanded), one whose antecedents are not known-- these should not be accepted as sureties.

117. If there be no surety given by the plaintiff who has a proper cause for dispute, he should be guarded and should give to the messenger (the person who keeps guard over him) wages at the end of the day.

118. A person belonging to the three higher castes, if without a surety, should be (confined) guarded by (warders) who stand outside (the lock-up), but (the king) should keep S'ūdras and others confined and fettered (if they cannot give sureties).

119. If he (person without surety) breaks (the restraint) and runs away, he should be fined eight *paṇas*, but in the case of persons of all castes, there should be no obstruction to the performance of (daily) obligatory actions (or duties such as bathing, worshipping, *sandhyā* prayers &c.).

120. The king should not allow a litigant to proceed with the litigation, if he retains the property or money which he has (been shown to have) seized ; it should be delivered

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' dwelling in a different country. ' Yāj. I. 10 lays down that the judge should require both parties to give a surety who would be able to pay the decretal amount and the fine that the defeated party would have to pay to the king (उभयोः प्रतिभूर्ग्राह्यः समर्थः कार्यनिर्णये). These verses enumerate those who are not proper sureties.

117 The reading ' yogyastu vādinaḥ ' would be preferable (meaning ' for the two parties a surety, who is a fit one in relation to the matter in dispute') but it is doubtful whether it is the origina reading.

120 Read ' gṛhīta ' for ' grahīta ' in the text. According to the Sm. C. this verse applies to a litigant who is shown to have seized upon the property in dispute ; in such a case he should be made to hand it over to the other party if the latter is worthy of being entrusted with it or it should be handed over to a third party. Here we have the germ of the appointment of a receiver under Order 40 of the Civil Procedure Code. The Vy. Māt. reads ' nyāyo ' for ' nyāye ' and explains differently; ' grahaṇa ' means property pledged or mortgaged. ' If a creditor sues for recovery of money charged on some

over to the other litigant or should be kept with a third person (as receiver).

(*The order in which plaintiff and defendant are to address*)

121. The plaintiff (lit. the attacker) should first affirm (his case) and then the defendant (the person attacked). When they both have finished, the members of the court (the sabhyas) and after them the judge (should speak).

122-123. Whoever has suffered greater injury or whose matter is more important should have the position of the plaintiff and not he who first informs (the court). Whoever suffers greater loss of wealth or greater bodily injury should be given the position of the plaintiff and not he who first informs (the court).

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property the suit should not be proceeded with as long as he retains the property hypothecated ; the property should be first returned to the debtor defendant (if he is worthy of trust) or should he kept with a receiver. The words of Vy. Māt. are ग्रहणं बन्धकं तत् तस्मिन्नेव समर्पणीयं यद्यसौ प्रत्ययितः। असत्यत्वे तु मध्यस्थे स्थापनीयम्। स्वयमेव चार्थिनः समुपस्थितत्वात् प्रत्यर्थिविषयम्.' What follows these words is not quite clear.

121 The plaintiff's affirmation is called 'pratijñā' or pūrvapakṣa and the defendants 'uttara.' The order in the case of sabhyas and judge does not apply to the preliminary questions they put to the plaintiff, but only to their deliberations after they have heard the parties viz. to 'kriyā' and 'nirṇaya'.

122. This verse states an exception to the rule contained in 121. The general rule is that he who first approaches the court with his complaint is the plaintiff and *dominis litis*. Compare Nār. आज्ञा लेखः पट्टकः शासनं वा आधिः पत्रं विक्रयो वा क्रयो वा । राज्ञे कुर्यात्पूर्वमावेदनं यस्तस्य ज्ञेयः पूर्वपक्षो विधिज्ञैः ॥. Dr. Jolly (Nār. p. 34 v. 38) is wrong in translating 'is known as defendant' (it should be 'as plaintiff'). Where both parties are in the position of plaintiff and defendant (because both make a claim against each other, as in a partition suit), Bṛ lays down the rule that where groups of persons come together claiming to be heard first, then the position of being first heard should be given according to the order of castes or after looking to the gravity of the injury or loss of each (vide Bṛ. p. 290 v. 4). Vide Manu 8. 24 for the proposition that the causes of litigants should be investigated in the order of the four varṇas. Vide Vīr. p. 61 for elaborate rules. First rule is that he who comes first should be heard first. The second is that if several persons come at the same time, precedence is governed by the order of castes. Where the injury is greatest, that case should be heard first irrespective of caste or time of coming. Time of coming to court is followed when caste is same.

(Characteristics of a plaint)

124-126 The plaint should be presented after putting down the period (of the transaction in dispute with reference to the king then reigning), the year, the month, the fortnight (bright or dark), the *tithi* (lunar day), the time (of enjoyment of the matter in dispute), the location (of the land &c.) the country, the place (village &c), the caste or species, the position of the body (or limbs), the age (childhood, youth &c), the dimensions or measurements of the thing sought to be recoverad (by suit), the material (*dravya*, in dispute), the amount (of money &c in dispute), plaintiff's own name, the names of the kings (of the country) in order, the dwelling place (address), the name (or description) of the thing claimed (i. e. the relief claimed), the names in order of ancestors (father, grandfather &c of both parties), the injury or loss (caused by the defendant), the person who got (the property by gift or sale &c) and the donor (or transferor), the reasons why the plaintiff submitted (to the enjoyment of his property by the defendant for a time) and other (necessary) details.

127–128. In disputes about immoveable property (the plaintiff) should set out (in the plaint) the following ten (details) viz, the country, the place (village &c), the situation (boundaries of the field &c, or the figure) the caste, the name, the dwelling–place (of the parties), the measure, the name of the field, the father and grandfather (of the parties), enumeration of the former kings.

124-126 These verses are an elaboration of similar verses of Bṛ. ' उपस्थिते ततस्तस्मिन् वादी पक्षं प्रकल्पयेत्। निरवद्यं सप्रातिज्ञं प्रमाणागमसंयुतम्। देशस्थानसमामासपक्षाहर्जाति नामं च। द्रव्यं संख्योदयं पीडां क्षमालिङ्गं च लेखयेत्'' ॥ व्य. मा. p. 294 and स्मृतिच० III. p. 81. Vide Yāj. II. 6. and V. M. (text p. 12) for a similar quotation from auother smṛti. Compare Civil Pro. Code Order VII rules 1–3 and 6 setting out contents of the plaint. All the above need not occur in each plaint, but they must be stated according to the facts of each case.

127--128 ' Measure' means ' so many *nivartanas* in extent' (or acres as in modern times).

129. Whatever (the plaintiff) being inflamed by any one of the passions such as lust speaks before the court should all be reduced to writing on a wooden board or some similar material with the word 'yes'.

130–131. He (the plaintiff) should delete superfluous (or unnecessary) matters (from the plaint) and should fill in gaps. He can set forth on the floor (additional matters or delete them) till the (form of) the plaint is finally fixed. The judge should have the plaint written down on a board with chalk as narrated naturally (by the plaintiff) and then on a leaf (or paper) when it is corrected.

132. He (the scribe) who writes down the words of the plaintiff or the defendant differently from what they narrate should be punished as a thief by the king who desires to enforce *dharma*.

133. He (the plaintiff) should get (time for setting out his plaint) till it can be drawn out of him or for three or seven

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129 ' Rāgādīnām ' refers to rāga (sexual desire), krodha (wrath or anger), and and lobha (greed), or as Sar. says to rāga (partiality or love), dveṣa (hatred), lobha and moha. ' Karaṇa ' means ' adhikaraṇa ' (hall of justice). This rule requires the scribe of the court to put down in writing whatever specially important circumstance a plaintiff lets out in a moment of passion. An instance in point is the remark of the Śakāra in the Mṛcchakaṭika where he adds ' na mayā. ' This verse is also the same as Nār. (p. 27 v. 18).

130–131 These verses provide for the amendment or striking out of unnecessary, embarrassing or scandalous matters from the plaint. Compare Civil Pro. Code, Order VI rules 5, 16, 17. The word ' bhūmau ' also includes ' wooden board etc.' on which the plaint is written. At first the plaint should be written on the ground or a board as a draft and after amendments and striking out, the final plaint is to be inscribed as a court document on birch bark or palm-leaf or paper. Compare Bṛ. p. 292 verses 14-15. Amendments were to be allowed until the defendant filed his reply. Vide Nār. p. 25 v. 7. ' Narrated naturally' means 'without fear or pressure from the judge or assessors etc. '

133 This and 135 contain exceptions to the general rule that plaintiff should get no time from the court to set out his plaint, since the plaintiff comes to court after well considering the strength of his case and determined to prosecute it; compare नारद 'सुनिश्चितबलाधानस्त्वर्थी स्वार्थप्रचोदितः लेखयेत्पूर्ववादं तु कृतकार्यविनिश्चयः॥'(quoted in व्य. मा. p. 290) and Nār.p. 24 v.1.कौटिल्य also says कृतकार्यविनिश्चयो हि अभियोक्ता नाभियुक्ता ' (p. 149). ' Sollekhanam'

days so that the man who wants to narrate his dispute collects his wits.

134. Since he (the plaintiff) makes his resolve (to file the suit) a long time after the cause of action arises, therefore he does not get time (after coming to the court), but the opponent gets time (to file his reply).

135. Where in a suit the wits of the plaintiff or defendant desirous of (prosecuting) his claim forsake him, there time should be granted to both plaintiff and defendant.

(Defects of a plaint)

136. The plaint that is opposed to (the interests or usages of) the country, that is prohibited by the king, that contains a mixture of several titles of law, does not succeed (i. e. must be rejected as bad).

137. A king, from a desire to find out the truth, should certainly entertain even such a cause as contains many pro-

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makes no clear sense. So it would be better to read 'श्वो लेखनं' (meaning writing down the next day '. Nārada has the verse 'श्वो लेखनं वा स लभेत त्र्यहं सप्ताहमेव वा । अर्थी तृतीयपादे तु युक्तं सद्यो ध्रुवं जयी ॥' (vide Nār. p. 24 v. 3). But the first half of that verse in the context refers to the defendant's getting time. '

134 The Vy. Māt. (p. 290) says that Kāt. here simply explains the two words सुनिश्चितबलाधानः and कृतकार्यविनिश्चयः in Nār., quoted under the last verse, which are adjectives (qualifying the noun plaintiff) that contain the reason why plaintiff after he comes to court should be allowed no adjournment to present his plaint.

136 Compare Bṛ p. 291 v. 12 and Nār. p. 26 v. 12. Apar. says that a king's order 'in my kingdom there should be no dealing in rupees ' is an example of what is prohibited. A plaint saying ' defendant stole my gold, I deposited a thousand *drammas* with him, he sold a cow to me without being its owner ' is an example where several *padas (titles of law)*, viz. ' steya ', ' nikṣepa ' and ' asvāmi-vikraya ' are mixed up. This would cause confusion if they were to be all investigated at the same time, as the evidence in each case and the burden of proof would vary. Therefore these several titles should be investigated at different times. Vide Civil Pro. Code order II rules 4 and 6. The words ' bhāṣā, 'pakṣa' and ' pratijñā ' mean the same thing, as the Mit. on Yāj. II. 6 says.

137 This rule is not opposed to the preceding. It can be explained in two ways. If several causes of action (such as recovery of debt, deposit, sale without ownership) are mixed up in a plaint, the king may accept it and investigate them at different times. Or the verse may mean that the cause of action (such as ṛṇādāna) may be the same, but the several

positions and as is stated definitely so far as judicial requirements are concerned.

138. That plaint is regarded as unacceptable which lacks (the mention of) the time and place (of the cause of action), that omits the (statement of the) material (dravya) claimed or the amount and that is wanting in the dimensions of the thing claimed.

139. The plaint of that man who does not write down that the opponent does not wish to do what is just or that he does what is unlawful does not stand (or bear fruit).

140. He (the king) should abandon (not entertain) a plaint as vitiated that contains an unknown (or imaginary) grievance, that discloses no injury, that contains letters making

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items in it may be different and so the reliefs may be different (e. g. as Apar. says, a plaint may assert that defendant borrowed a hundred gold coins in Benares, purchased a year afterwards some cloth and then in another place purchased cows or corn). Such a plaint is not bad.

138 Compare Nār. p. 26 v 11.

140 The Vy. Māt. (p. 295) notes that Bṛ. had almost this very verse (Bṛ. read 'sadoṣam ca' for 'nirābādham' and 'pakṣaṁ rājā vivarjayet') and quotes five verses from Bṛ. to explain these six. There is no agreement among the writers on the meaning and examples of these. According to Apar. and Mit. the example of ' aprasiddha ' is ' my hare's horn has been taken away by the defendant,' while according to Bṛhaspati' 'aprasiddha' is that grievance which was never asserted by anybody and the Vir. notices this example and says that it would be an example of ' asādhya ' according to Bṛ. and gives 'defendant stole my field drawn by a thousand ploughs ' as a proper example. The Vy. Māt. criticizes this and the other examples given by the Mit. and Apar. as opposed to śāstra. An example of ' disclosing no injury ' is 'defendant carries on his work by the light of the lamp in my house.' According to Mit. and Apar. a plaint containing the letters ' ka, ca, ṭa, ta, pa ' is incoherent. Bṛ. gives two meanings of ' nirartha, ' viz. ' where the injury is so slight that no man of ordinary temper would complain about it ' (compare sec. 95 of the Indian Penal Code) and the example would be' 'he looked at me with a smile.' Another meaning is ' a plaint that contains no information that can be brought under the fourteen titles of law beginning with ṛṇādāna that are based on money (i. e. civil actions)'. An example of ' niṣprayojana ' is ' he sings sweetly near my house. ' Bṛ accepts this meaning and gives another, viz. 'a plaint which does not contain information that can be brought under any of the four criminal titles of law' (such as pāruṣya, sāhasa &c.). An example of ' asādhya ' according to Mit. it I: was ridiculed by Devadatta with the knitting of his brows.' Wis-

no coherent sense, that gives no cause of action, that is in capable of proof and that is self-contradictory.

141. Those cognisant of (the true nature of) a plaint declare that to be a proper plaint which is free from the faults of a declaration, which is capable of proof, possessed of good reasons, definite and not self-contradictory.

142. (The plaint should be) concise in words, abounding in meaning (contents), unambiguous, not self-contradictory, free from arguments that would defeat it and capable of refuting opposite arguments.

143. When the plaintiff presents a plaint as described above, then the defendant should give his reply corresponding to the (contents of the) plaint.

144. If a statement, being asserted by the plaintiff in the hearing of the defendant, is not traversed (by the defendant) or if the defendant remains silent when he should have given (a reply), it (should be held by the court that it) is admitted (by the defendant).

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nesses can hardly be found to prove this. nor can there be any writing and as it is a slight matter ordeals are inappropriate. According to Bṛ. 'hare's horn is stolen' would be an example of 'asādhya.' An example of 'self-contradictory ' would be ' I was cursed by the dumb man'; while Bṛ. explains ' viruddha ' to mean ' opposed to the interests of the country, the capital or the king. '

141 The Vy. Māt. has a lengthy disquisition on this verse, particularly on the first half. In Sanskrit logic pratijñā, pakṣa, and sādhya are words sharply distinguished from each other, while here in this verse they appear to be practically identical. Vide my notes on V. M. p. 26. Nārada declares 'pratijñā' to be the essence of all judicial proceedings (Nār. p. 6 v 6). If the plaintiff changes his pleading, he loses ; similarly his assertions in the plaint must not be opposed to common experience or pratyakṣa or self-contradictory. The faults of pratijnā are enumerated in Vy. Māt. as follows ; प्रतिज्ञादूषणानि च परस्परविरुद्धार्थपदप्रयोग-प्रतिज्ञान्तरकरण-प्रतिज्ञाहानि—प्रतिज्ञासंन्यासाश्रयासिद्धि—धर्मिग्राहकप्रमाणविरोध-विरोधिधर्मान्तरग्राहकप्रमाणबाधितत्वादीनि । 'प्रतिज्ञाहानिसन्यासताद्वरोधान्तराणि च । प्रतिज्ञादोषमध्ये किं वसन्त्येतानि नाचिरम् ॥" इति (p. 292).The words 'capable of &c.) mean that the plaint should anticipate such pleas as limitation, res judicata and state how they would not affect him.

142 Compare Civil Pro. Code, order, VI rules 1 and 7.

143 Compare Nār. p. 24 v. 2 and Yāj. II. 7 and Bṛ. p 290, v. 7.

144 Compare Civil Pro. Code Order VIII rule 5.

(*Whether the defendant's reply must be given at once or after some time*).

145. If, after hearing the matter (the plaint) consigned to writting, the defendant for some (proper) reason requests for time in the suit, it should certainly be given to him.

146. (The reply should be given) at once or in one day or three or five days according to the importance (of the matter in dispute). He (the defendant) should get three fortnights or a week in (suits for recovery of) debts and similar causes.

147. The king should grant little or long time to the defendant looking to the time (of the transaction in dispute), the capacity (of the parties) and the gravity or slightness of the causes.

148. Time should be granted (to the defendant to file his reply), viz. a day, a month or a fortnight, or a season (two months) or even a year or even beyond that according to the requirements of the importance or otherwise of the cause.

149. Where the value (of the thing in dispute) would deteriorate or there would be destruction or loss (of the thing), there no time should be given (for a reply) since the matter is urgent (lit. ending in total loss).

150-151. In (disputes about) cows, bulls, fields, women, marriage, deposit, loans (of things for use), gifts, purchase and sale, violating a maiden, theft, quarrels (pāruṣya), wrongs attended with force, treasure, deceit, perjury, (the king) should make (the defendant) reply at once.

152. (The king) should make (the defendant) reply quickly even at an unusual time in disputes about crimes attended with force, theft, pārusya (abuse, assault and battery), cows, accusations (of having committed grave sins), urgent matters, land. (Thus says) Bṛhaspati.

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147 Verses 154-155 explain what time to file a reply is to be granted in accordance with the time of the transaction in dispute ; while verses 156-158 refer to time given according to capacity and verse 148 determines the time according to gravity of the cause.

148 Compare Bṛ. p. 293 v. 6.

149 For the meaning of 'ātyayika ' compare 'atyaye ' below in verse 152.

152 Compare Yāj. II. 12 and Nār. p. 17 v. 45 for a very similar verse. Atyaya ' means ' loss oi life or destruction of the thing in dispute. ' ' At an unusual time ' means ' even at night. '

153. As regards causes (or transactions) that arise at once the king (or judge) should make (the defendant) file his reply at once or he may give time to the defendant in causes which arose a long time ago.

154–156. When the transaction is recent (the reply must be made) at once, when it is a month old, a day may be granted (for filing the reply), when it is six years old, three days, when it is twelve years old seven days may be given, when twenty years old, he (the defendant) should get (a delay of) twenty days or half a month, when thirty years old a month, beyond that (i. e. when more than 30 years old) the time may be three fortnights ; or (the king) may himself grant as he wishes any time short of one year ; (he may grant) a year to those who are idiots or lunatics or overwhelmed with disease.

157–158. Where (the defendant) has gone to another land or if the whereabouts of the subject–matter (of dispute) are not known, or the vendor of a thing or the witnesses are staying in a foreign land, there time should be granted to men (defendants) till they return to their country. Even when once time (or adjournment) has been granted, it may have to be given again looking to the importance of the cause.

159. After that (i. e. after the plaintiff has finally completed his plaint) the opponent who has heard the contents of the plaint should narrate (to the court) his reply corresponding to the contents of the plaint.

160. If a person (the defendant) does not present himself when a decision has to be given on usages, the gift (or return) of money, desirable actions and service (or worship of deities), then (the king) should not cause an error (in the decision by deciding in defendant's absence).

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157 'Mūla' means 'the person from whom a thing is bought' in cases where another man claims ownership over it. Vide Vir. p. 379.

160 The sense of the first half is not quite clear; 'chala' means 'mistake or mistaken utterance.' Compare Yāj. II. 19 'छलं निरस्य भूतेन व्यवहारान्नयेन्नृपः ।' and Nār. p. 13 verse 29 'it may be founded on truth or on error etc.'

161. If at that time (when defendant has to give a reply) there is an obstacle due to fate or the king, he (the defendant) is not defeated (in the suit) merely by his not challenging (the plaintiff's assertions) or his giving up (his defence).

162. (The defendant) should establish the defects (i. e. calamities) due to fate and king by means of witnesses; but (the defendant) who acts crookedly (perversely) should be made to pay a fine equal to the money (in dispute).

163. The opponent (lit. the person attacked) should (not) deliver a counter-attack against the plaintiff in any matter except in cases of assault and battery, theft, adultery, and urgent matters.

164. The king should cause (the defendant) to give a reply according to the requirements of justice after paying regard to whatever rules of practice have been handed down traditionally in matters (of dispute).

(Reply of four kinds)

165. A reply may be of four kinds, viz. admission of the truth (of the plaint), denial, a special plea, and the rule of former judgment (or *res judicata*).

166. If the opponent on hearing the contents of the

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161 ' Daivarajakṛto doṣaḥ ' means ' interference due to an act of God or the king's action (act state), i. e. irresistible force. Compare Bṛ. p. 295 v. 9.

162 "Crookedly &c.' means ' if the defendant absents himself without there being any difficulty due to act of God or king, a decree *ex parte* should be passed against him and he should be fined.'

163 The proper readidg seems to be अभियोक्तारं नाभियुञ्जीत. The reading in the text would be opposed to Yāj. II. 9. 'अभियोगमनिस्तीर्य नैनं प्रत्यभियोजयेत्। कुर्यात्प्रत्यभियोगं च कलहे साहसेषु च।, कौटिल्य (III. 1 p. 149); अभियुक्तो न प्रत्यभियुञ्जीत अन्यत्र कलहसाहससार्थसमवायेभ्यः ' and Nār. (p. 19 verse 55) For ' Atyaya ' vide verse 152. Compare Civil Pro. Code order VIII. r. 6. The idea of this verse is that defendant should not be allowed to demand by his reply an independant claim that does not arise out of the same cause of action or transaction as that in the plaint. For such a claim he will have to file a separate suit. But if plaintiff alleges assault by the defendant, the latter can allege prior assault on himself by plaintiff.

165 Compare Nār. p. 25 v. 4 and Bṛ. p. 294 v. 9.

plaint denies them either in express words or by implication that is a reply of denial.

167. If the opponent were to deny the cause of action, (contained in the plaint) that should be understood in judicial procedure as the reply of denial.

168. Declaration of the truth of the claim (in the plaint) is said to be (reply of) admission.

169. A reply of denial is of four sorts (i. e. put in any one of the following forms of expression), viz. ' this is false, ' ' I dont know anything about this ', ' I was not then present there ' (at the transaction mentioned in the plaint), ' I was not born at the time (of the transaction in plaint)'.

170. If the defendant, accepting the matters set out by the plaintiff as correct, sets up a plea, then Bṛhaspati declared that the plaint becomes weak (i. e. fails).

171. That is declared to be (a reply of) former judgment when a person, though defeated (lit. sunk) in a (former) proceeding, again causes (a plaint) to be written and is addressed (answered) with the words ' you were formerly defeated. '

172. (The reply of) former judgment is of three sorts (when the defendant says) 'I shall establish by means of the presiding judges or witnesses or a document that he (the plaintiff) was defeated by me formerly. '

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167 The Vy. Māt. p. 301 ascribes this verse to Bṛhaspati.

168 The reply of confession or admission is variously named ' satyottara, ' or ' sampratipattyuttara. '

169 This is practically the same as Nār. p. 25 v. 5.

170 Vir. reads ' Bhṛgu said. ' ' Adharya ' means 'weakne of the plaint. ' The Par. M. (III. p. 72) ascribes the verse to Bṛhaspati. Read परा. मा. for व्य. मा. in the footnote. An example of *kāranottara* or *pratyavaskandanottara* is where the plaintiff says that defendant took hundred rupees and the defendant replies either that he returned them or that they were gifted to him. The reading 'Bhṛgu' of Vir. seems to be an emendation purposely made and Kātyāyana appears to heve taken three quarters from Bṛ. and substituted ' adharyam etc. ' for ' pratyavaskandam tu tat' of Bṛ.

172 A plea of former judgment could be established in three ways, viz. citing the judges who decided the former case, by witnesses who knew of the decision or by means of a document (the written judgment in the former case).

(*Defective answers or defects in answers*)

173–174. A reply, that is ununderstandable, or self-condradictory, incomplete, too wide, dubious, impossible, not clear, irrelevant, full of the fault of exaggeration, that does not thoroughly meet (all the points of the plaint), that interrupts the plaintiff in stating his plaint, mysterious, making no sense, unconstruable without further exposition, unreasonable (or absurd) is not commended by the wise. That reply which interrupts the plaintiff in setting out the plaint, that does not thoroughly meet (all the points in the plaint), that is mysterious or makes no sense, that is unconstruable without further exposition and that is unreasonable, does not conduce to one's success.

176. That reply is ununderstandable which is narrated by one who does not know the peculiar marks (of the matter in dispute, such as the colour of a cow) or the figure (having long horns &c.) or the number (such as a thousand) or the particular convention (or times of the matter in dispute) or is narrated in a language other (than the one known to the judge or assessors).

177. That reply should be regarded as self-contradictory when (a defendant) says thus ' I returned in my boyhood (plaintiff's dues) and (again says) ' I did not return '.

173-175 Here again the terms are differently explained by different writers. Vide notes to V. M. pp. 28–29. Besides verses 174-175 seem to be only different readings current in different localities. All the terms, except a few, are explained by Kāt. himself in verses 176-186. Compare Bṛ. p. 293 v. 8. An example of an impossible reply is where a person of 20 says ' my grandson returned the debt'. Vir. explains 'not clear' as meaning one of which even the letters cannot be easily made out. An example of ' full of exaggeration' given by the Sm. C. and Parāśaramādhavīya is, when the plaint asserts ' defendant has to pay me a hundred' the defendant's reply is ' I paid two hundred. '

176. The explanation of the first half is in accordance with the Parāśaramādhavīya.

177. According to the Mit. (on Yāj. II. 6) and Apar. ' ākula ' in verse 175 means the same thing as ' viruddha. ' The example of ' ākula ' given by the Mit. is where, when the plaintiff charges defendant with a hundred suvarṇas, the defendant replies that he took them but does not owe them to the plaintiff.

178. That is said to be an incomplete reply where (a defendant) for saying ' this plaintiff was formerly defeated by me in this very matter' only says 'he was formerly by me '.

179. That reply is too wide when (in a reply of admission) having to say ' I took ' (as alleged in the plaint), the defendant says, ' I have carried out what was to be done' and then adds 'I formerly took the property or money (alleged).'

180. The wise hold that the reply is ambiguous in a judicial proceeding when instead of replying ' deyam mayā ' ('it has to be returned by me') he gives such a reply as 'mayā deyam ' (which means both ' it has to be given by me or it has not to be &c.).

181. That is declared to be an irrelevant reply where (the defendant says that) the plaintiff either through strength or weakness formerly concealed a crime attended with force; this is regarded as unsaid (i. e. as no reply).

182. That reply is said to be not meeting thoroughly (the plaint) when to a plaint averring ' I gave to him a thousand and a half ' the answer given is ' that half I returned '.

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178. Here the defendant omits the important word ' defeated ' and hence the reply is incomplete. The Mit. and Apar. say that the example is where in a plaint charging a debt of one hundred the defendant says ' Yes. I owe five.'

179. The Mit. says that an instance of a 'too wide' reply is where, when the plaint avers a debt of one hundred, the defendant replies he owes two hundred.

180. The expression ' mayādeyam ' may be read as 'mayā deyam ' or as ' mayā adeyam' owing to '*avagraha.* '

181. ' balābalena ' may also mean ' very strong' on the analogy of such words as ' carācara, ' 'calācala ' ' patāpata, ' ' vadāvada. ' The defendant in this avoids replying to the substance of the plaint and only puts forth something about the bad character of the plaintiff. Compare section 52 of the Indian Evidence Act which says that proof of character is irrelevant in civil proceedings and section 54 about the character of the accused in criminal proceedings.

182. An example of ' avyāpi ' (which is the same as ' avyāpaka ') is according to Apar. where the plaint says ' he took a hundred in Ujjain in the month of Caitra' and the defendent replies that he did not take in Ujjain in Caitra. This is an evasive reply. He must say he never received anything from plaintiff. Compare Civil Pro. Code, Order VIII. rule 4.

183. That reply is said to interrupt the (plaintiff's) words where, before the plaintiff has completely set forth his plaint, (the defendant replies) 'I did not formerly take (from him)'.

184. That reply is said to be mysterious in judicial proceedings when the reply is 'how will anyone give a red lotus that he (plaintiff) did not accept ?'

185. Those who know the (principles about) replies regard that reply as making no sense when it is put in the form 'Is it always to be given by him alone? It may be given by me' (or is it always not to be &c.).

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183. 'Vyastapada' is differently explained by Mit. as meaning 'that sets forth a different title of law' and the example given is when plaintiff avers that defendant owes a debt of a hundred the defendant replies that plaintiff kicked him. Here 'title' alleged is 'ṛṇādāna,' but the reply contains the title' 'daṇḍapāruṣya.' The Vyavahāratattva notes that Bhavadeva read 'astavyastapadavyāpi' and explained it as meaning 'full of words having no connected meaning.' This would be somewhat like 'ākula.' Vide Vir. p. 85 also.

184 The idea is: defendant meant to say that he offered back the red lotus to the plaintiff but he did not receive it and so he could not return it. He does not expressly say so, but puts forth his reply in the form of a question and in a way that is not clear. Besides the word tāmarasa' was not well known, not being universally used and being a word borrowed from Mlecchas. Vide Śabara's Bhāṣya on Jaimini I. 3. 10. This is the explanation of the Parāśaramādhavīya (III. p. 76). The Sm.C. appears to take it differently. The defendant really meant to say 'I did not take a red lotus from you and therefore I do not give it back.' The Mit. explains 'nigūḍhārtha' as containing an innuendo against the judge or assessors or the plaintiff e. g. when plaintiff says 'he owes me a hundred' and defendant replies 'do I alone owe to him' (suggesting that even the judge and sabhyas owe to him). Apar. explains it as meaning 'containing words the meaning of which is not well known' and gives 'arjunī' (in the sense of cow) and kāśyapī (the earth) as instances.

185. The first half contains a question and the answer is doubtful, depending as it does upon the tone in which it is uttered. Besides 'sadādeyam' and 'mayā deyam' are ambiguous, as we may separate the words into 'sādā deyam' and 'sadā adeyam'. Vide note on 177 for the meaning of 'ākula' given by the Mit.

186. That reply, which is in the form 'crows have teeth' though (as a matter of fact) crows have no teeth is called 'asāra' (absurd); in truth it is not a good reply.

187. (A reply) that falls short of the matter in dispute, that is not clear, that is incomplete or too wide or unconnected; or not thoroughly covering (the points of the plaint), that is absurd or dubious, cannot traverse (defeat) the opponent (the plaint here).

188. That can never be a (proper) reply which is ambiguous, irrelevant, incomplete, too wide, covering only a part of the plaint.

189. That is not a (proper) reply which is a reply of admission as to a portion of the plaint, and a reply of a special plea as to another part (count in the plaint) and is also a reply of denial as regards another portion, since there is a blending (of several kinds of reply).

190. In one and the same proceeding, the burden of proof cannot rest upon both the parties (at the same time) nor can both succeed in (simultaneously) establishing what

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186. The Mit. says 'asāram' means opposed to reason or common sense and gives the instance; where plaint avers that defendant borrowed a hundred rupees at interest, paid the interest but not the principal and the defendant replies that he paid the interest but never took the loan.

187. The reading is probably 'prastutād-anyad' for 'alpam' and it would mean 'irrelevant.'

189 If there is blending of several kinds of reply at the same time, it is an उत्तराभास and not a proper उत्तर. This is the view of Kāt. The reasons are given in the following verse. But if the various kinds are not investigated at the same time, there is no defect.

190. For a detailed explanation of this verse, vide my notes to V. M. pp. 29-35. 'Kriyā,' as Kāt. himself explains in verse 216 below, means 'means of proof such as witness, documents etc' and it also means 'burden of proof.' In a reply of denial the burden is on the plaintiff, in a reply of special plea or former judgment it is on the defendant, in a reply of admission there is no necessity to adduce proof. If a reply is a combination of denial and special plea (or res judicata), the burden of proof will be on both parties. But plaintiff and defendant cannot simultaneously proceed to discharge the burden. This is stated in the first half. If both parties cannot be allowed to discharge the burden of proof simultaneously, they cannot both succeed at the same time. This is set forth in the words 'na cārthasiddhirubhayoḥ.' If a defendant combines a

they desire to prove nor can two methods of proof be employed (simultaneously) in the same proceeding.

(*Matters that cause failure in litigation*)

191. If (the defendant) after accepting what is first stated (by the plaintiff) were to set forth in his reply a plea stronger (than the averments in the plaint), then the latter (the plea) has to be established (by evidence) and not the former (viz. the averments in the plaint),

192. (The defendant) should give a reply corresponding with the matter (alleged in the plaint) ; (the king or judge) should, if he does not (voluntarily) give a reply, compel him to give it by means of such methods as coaxing, deceitful tricks &c. till the object (viz. the giving of a reply and finding out the truth) is accomplished.

193. If any matter is not alleged by the plaintiff (in the plaint) either through oversight or fraud, but is given out in

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reply of a special plea with a reply of former judgment, they have to be proved by means of different evidence. For example, where plaintiff avers ' he owes me a hundred suvarṇas and rupees ' and the defendant replies 'the suvarṇas were returned and as to the rupees there is a former judgment,' the fact of the return is to be proved by witnesses or by a receipt (or other document), while the judgment has to be proved by producing the *jayapatra* or citing the judges as witnesses. The means to prove the special plea will not prove the former judgment and *vice versa*. Hence a simultaneous reply of special plea and former judgment is not proper as two different means of proof will have to be simultaneously employed. This is set out in the words ' na caikatra kriyādvayam. '

191. This only means that in a ' kāraṇottara ' (reply of special plea) the *onus* of proof is on the defendant. Compare verse 170 above

192 The four-well known means are : sāma, dāna, bheda and and daṇḍa. They are defined by Hārīta as ' प्रियपूर्वं वचः साम भेदस्तु भयदर्शनम् । अर्थापकर्षणं दानं दण्डस्ताडनबन्धनम् ॥ ' (quoted in Sm. C. III. p. 104). The same work quotes a verse of Vasiṣṭha enumerating seven means ' कौटिल्यं सामभेदौ च दण्डश्चेति चतुष्टयम्। मायोपेक्षेन्द्रजालानि सप्तोपायाः प्रकीर्तिताः ॥

193 While the reply is in course of being given, if the plaintiff alleges any matters in addition to those stated in the plaint, the plaintiff may be allowed to do so and the defendant's reply to the additional

the midst of the reply, then it should be accepted (by the judge) so far as both (the plaintiff and defendant) are concerned.

194 When a defendant, though urged by the (four) methods, would not give a reply, he should be regarded as defeated after seven days have expired and should give (to the plaintiff what he claims).

195 If a person, after lodging a plaint, abandons (his original claim) or puts forward a different one he (must be deemed to have) resorted to a totally different case. Such a plaintiff becomes a losing party.

196. If a person, who having made an attack or charge against another, (afterwards) says ' I did not put forward any dispute' (against him), he thus becomes one who speaks contradictory things ; (the judge) should direct him also to be a losing party.

197. That plaintiff, who having caused (his plaint) to be written (on paper or a leaf) desires to subtract sentences from it or to add them to it, would become a losing party. He does not deserve to be the plaintiff.

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matters may also be accepted. This implies that after the reply is completely set out, the plaintiff cannot add any thing. This is expressly stated in verse 206. Compare Civil Pro. Code, Order VI r. 17 and Order VIII rule 9.

194. Compare Order VIII rule 10 and order IX r. 6. Vide also Kauṭ. (text p. 149) and translation p. 190 ' the defendant may be allowed three or seven days etc. '

195. Compare Nār. p. 19 v. 56 and p. 29 v. 24 and Yāj. II. 9. The V. M. notes that such a plaintiff becomes liable to be fined, but does not altogether lose his cause if it is of a civil nature (text p. 19). For the fine in such a case vide verse 202 below. Kauṭ. also enumerates (p. 149) many causes of Parokta the first of which is ' forsaking the point first set out, he goes over to another. '

197. The Sm. C. explains that as long as the plaint is written only on the ground with chalk etc. the plaintiff is allowed to add to or subtract from it (vide verse 193 above) and that this verse applies only when the reply has been fully set out. If he adds or subtracts while the reply is being given he is only to be fined, but does not lose his case altogether,

198 The wise hold that the members of the court (sabhyas) and witnesses are (called) ' kriyā. ' He is styled 'kriyādveṣī' (shunning judicial investigation) who through ignorance (or infatuation) hates (or avoids) that 'kriyā.'

199. (A litigant) if he does not present himself (before the court) after he is summoned, he loses his cause at once.

200. If a litigant even when asked ' speak out does not say anything (remains silent) he deserves to be at once confined (in jail). The next day that foolish person should be understood to have become a losing party.

201. Where he (a litigant) desires to obtain a long time (a long delay or adjournment) merely under a pretext, that should be regarded as deceitful and is declared to be a reason leading to loss of the cause.

202. One who changes his pleading should be fined five paṇas, one shunning judicial investigation should be fined ten paṇas, one failing to appear twelve paṇas, one who remains silent sixteen and one who absconds after receiving sommons twenty paṇas.

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198. Accordingto Nār. p.31 v.33 there are five classes of persons who may be called 'hīnavādī' (cast out in their pending suit) viz. 'anyavādī', 'kriyādveṣī,, 'nopasthātā,' 'niruttara' and 'āhūtaprapalāyī.' Verses 195-197 illustrate the first. This verse illustrates the second. Verse 202 lays down the fines for each of these. Vide Bṛ. p. 295 v. 5 for four kinds of hīnavādī.

199, This speaks of 'nopasthātā ' of Nārada ; compare Order IX rules 3, 6, 8.

200 This explains ' niruttara.'

202 The Sm. C. explains that Nār. enumerates five ' hīnavādīs ' to show that each succeeding should be fined more heavily and not because there are only five kinds, since there are other kinds also. Vide Nār p. 31 v. 33 for these five terms. Bṛ. (p. 295 v. 5) mentions four kinds of hīnavādīs, two of whom ' the silent ' and ' absconder ' are the same as in Nār., but two others ' sākṣi -- parājita' (convicted by witnesses) and 'confessing ' are different. These five classes of hīnavādīs, though liable to fine do not lose their civil claims, as Nār. says ' a verbal error does not annul the claim in actions of any kind ; so if the case relates to cattle or to a woman or to land or to debt he is liable to punishment but his claim is not annulled.' The latter half only illustrates civil disputes. Vide Mit. on Yāj. II. 19 and Manu VIII. 53-56 for hīnavādīs. Vide also Kauṭ. text p. 149

203. The king should punish (fine) him who, though thrice summoned, does not come (to court) or absconds though summoned and allowes five days to pass (without appearing before the court).

204. Where (a litigant) divides (induces to be partial) even a single one out of the members of the court that have listened to the trial and where he offers a bribe to the opponent he must be indicated as a losing party.

205. In a civil dispute if a litigant himself threatens (the other side) or offers a bribe to him or threatens him through another or restrains him, in these cases the litigant becomes hīna (i. e. a losing party or is cast off).

206. (The hīnavādī) should be fined in accordance with the offence charged and no opportunity is to be given for litigating the same matter again; when the averments of both (plaintiff and defendant) have been written down and the consideration of the dispute (by the members of the court) has started, whoever then adds what is improper is cast off from his claim.

207. He, who after announcing his witnesses, does not bring them (before the court) at the trial at his sweet will that litigant in consequence of this loses after thirty days.

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205 Vir. and Sm. C. ascribe this verse to Bṛ. The same results follow whether these causes occur singly or cumulatively.

206 The first half here refers to criminal disputes as explained by the Vir. (p. 101) which ascribes the first line to Bṛhaspati. The last two lines mean that he loses his claim altogether, if he makes a case not in keeping with what he stated in the plaint after the judges have begun to consider the matter. Compare Yāj. II. 16. The reading 'anuktam' of Apar. means if he avers what was not said in the plaint, which means practically the same thing as above.

207 'At his sweet will '-this means 'not being prevented by fate, or the king or some other irresistible force.' Bṛ. (p. 295 v. 7) has almost the same verse साक्षिगस्तु समुद्दिश्य यस्तु तान्न विवादयेत्। त्रिंशद्रात्रात् त्रिपक्षाद्वा तस्य हानिः प्रजायते ॥' (स्मृतिच. III. p. 110). Vide also Bṛ. p. 295 verses 8-9 for ate or King.

208. If a man has been defeated because he filed no reply through having absconded or because he resorted to a different case (from the one in the plaint), his cause may again be tried, but not of him who is defeated in accordance with texts laying down that result (viz. irrevocable loss of the cause).

209. The wise declare a retrial of the cause for him who was defeated in accordance with texts speaking of a 'hīna' (losing or cast off) litigant; but there is no retrial for him who is defeated in accordance with texts that lay down (in express words) the loss (of the matter in dispute).

210. Those (litigants) who after informing (the king) are won over by money and compromise (their dispute) by a private arrangement would be liable to a double fine, since they thereby cheat the king.

(*The stage of the adducing of proof.*)

211. Even the plaint reaches the position of being the reply when there is a special plea (raised in the reply); hence it is declared that in such a case the adducing of proof must be

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208 The first part means that if he can sustain his case on other sound grounds, a litigant, who has his cause cast out for absence, or for change of pleading, can demand that the case may be heard. But if he is guilty of conduct which has been declared by express texts to entail irrevocable defeat (such as in verse 206) then he cannot have a retrial. Compare Nār. p. 34 verses 40-41

209 Compare Civil Pro. Code Order IX. rules 4, 9 that provide for setting aside the dismissal of a suit and rule 13 that provides for setting an *exparte* decree aside.

210 The Vīr. (p. 104) explains that they would have each to pay a fine double of that imposed on a party defeated after a contest and not double of the property in dispute, since the rule would be inapplicable to criminal and other cases where there is no property in dispute. But if the king is informed or if a matter is compromised with his permission, there is no fine. Vide Bṛ. pp. 295-296 v 10 for a very similar verse where Dr. Jolly's translation 'to pay twice the amount (in dispute) as a fine' is not correct, Vide Bṛ. p. 296 v. 11-12 for compromise with king's permission.

211 The idea is that when in a reply of kāraṇottara, otherwise called pratyavaskandana, the defendant admits the facts in the plaint and raises a special plea, the plaint really becomes the reply and the reply (i. e. the special plea) becomes the claim (pūrvapakṣa) and it is

directed towards the establishing of what then becomes the claim (viz., the special plea).

212. When (the plaint) after being properly amended is written down in this way and when a reply free from defects has been given, it is necessary that the defendant or the plaintiff should take up the adducing of proof.

213. That is (styled) *sādhya* (the claim to be established) which the plaintiff himself proposes to clearly establish and that is (styled) *sādhana* (means of proof) by which the entire claim (of the litigant) is established.

(Means of proof and their relative strength)

214. Documents, witnesses, enjoyment (or possession) these three are known as means of proof. Reasoning is the consideration of certain characteristics which cannot be explained otherwise (than on the hypothesis propounded) and there are ordeals of poison and the like.

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the defendant who has to begin to establish his special plea (i. e. the *onus probandi* as to the plea is on the defendant) and the plaintiff has not to prove his allgations of fact, since they are admitted. Compare Nār. p. 31. v. 31. The Vīr. (pp. 79–81) has an elaborate note on this verse, in which the varying interpretations of this verse read with the texts of other sages given by Pradīpa, Vācaspati-miśra and Raghunandana are considered. According to the second writer a plea is either stronger than the plaint or of equal strength or weaker and that in the case of the first kind of plea (stronger than the plaint) the burden of proof is on the defendant, while in the other two kinds, the burden of proof is on the defendant. The Vīr. does not accept the threefold division of the special plea and adheres to the general propositions laid down in Nārada and Vyāsa that in a reply of special plea or res judicata the burden is always on the defendant and that in a reply of refusal the burden is on the plaintiff. Compare Bṛ. p. 297 v. 20 for burden of proof.

212. In some cases (as stated in the previous note) the burden is on the defendant and in others on the plaintiff. Compare Bṛ. p. 294 v. 2 and Yāj II. 7 and also बृहस्पति, 'ये तु तिष्ठन्ति करणे तेषां सभ्यैर्विभावना । यदि स्तोत्तरं [illegible] व्यग्रदातव्यकस्य वादिनः ॥' quoted in स्मृतिच. III. p. 113. The deliberation of the court as to on whom the burden of proof lies is called *pratyakalita* by some, while Nār. p. 29 v. 21 seems to style the additional statements of plaintiff and defendant *prātyakalita* (वादिभ्यां लिखितच्छेषं यत्पुनर्वादिना स्मृतम् । तत् प्रत्याकलितं नाम स्वपादे तस्य लिख्यते ॥)

213. 'लक्षोद्देशस्तु युक्तः स्यात्' is explained by Vīr. as translated above.

214. For the means of proof compare Yāj. II, 22. Vasiṣṭha XVI 10 contains the first half.

215. When the plaint has been completely written down in proper words, the plaintiff should establish by proof (his claim) after the third stage.

216. The matter to be accomplished is called *'sādhya'* and the 'means' are styled ' *kriyā* '. The latter (i. e. means of proof) are twofold, viz. divine and human; human (means of proof) are documents, witnesses and the like and divine (means of proof) are the balance and the like.

217. A wise man should avoid, when witnesses can be had, the divine means (of proof). (A litigant) who employs divine means (of proof) when witnesses are available, becomes a losing party on that account.

218. If one (party to the litigation) puts forth human (means of proof) while the other (party) puts forth divine means, then the king should accept human means of proof and not divine.

219. When men dispute, if there be human means of proof though only reaching a portion (of the allegations in the plaint), then the human means should be accepted and not divine means, though they may be complete (i. e. completely cover all the allegations).

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215. Vide verse 31 and notes thereon for the four stages of a judicial proceeding. The Sm. C. takes (III. p. 124) the word 'likhita ' to mean ' reply '.

216. We must read ' dhaṭādir' for ' vadhādir '. The first two lines are ascribed to Vyāsa by Sm. C. (III. p. 124) and Vir. (p. 111.). Compare Nār. p. 30 v. 28 where we have घटादिर्दैविकी मृता and Bṛhaspati ' द्विप्रकारा क्रिया प्रोक्ता मानुषी दैविकी तथा। एकैकानेकधा भिन्ना मुनिभिस्तत्त्ववेदिभिः ॥' quoted in स्मृतिच. III. p. 124.

217. ' Witnesses ' is illustrative and stands for all human means of proof (such as documents &c.). Yāj. II. 22 also expressly states that ordeals are to be employed only in the absence of doccuments, witnesses and enjoyment. Compare Nār. p. 30 v. 29.

219. 'A portion' here means a substantial part of the allegations and not any part whatever however trifling or irrelevant it may be. Vide verse 222 below. For example, if the plaintiff asserts that defendant borrowed a certain sum at a certain interest and if he can prove, when the defendant denies all, theborrowing by human means but not the exact amount nor the rate of interest, then he would succeed and defendant would not be allowed to have recourse to divine means. Compare Yāj. II. 20 and Visṇudharmasūtra VI. 22. for the proposition that when the plaintiff establishes a part of his claim (in case defendant denies everything) defendant has to render the whole of the claim.

220 The divine (means of proof) are of five kinds and human of three kinds.

221. When (a litigant) abandoning a strong ground resorts to a weak one (to prove his case), he would not be again entitled to rely on that (strong ground) after the members of the court have decided as to who should succeed.

222. That ' kriyā' (proof) that would establish several unsubstantial parts (of the allegation of the party) but not the essential part should be cast off since it is unsubstantial (weak). That means of proof which would establish both sides (viz. the plaintiff's and the defendant's,) should be cast off entirely.

223. In disputes when witnesses exist, divine means of proof are not prescribed and when there is a document, neither ordeals nor witnesses (are prescribed as the proper means of proof).

224. A document becomes lost (or useless) by time and it may be found by judicial investigation to be tainted (tampered or forged). In a judicial proceeding where no documents or witnesses exist, he (the litigant) should indicate (rely on) divine proof. In (a claim) that is to be established by divine proof, he should not employ a document or (other) human means of proof.

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220. 'Five'—this does uot mean that there are no more, but that they are not less than five. Pitāmaha speaks of nine kinds of ordeals.

221. This rule lays down that a litigant must rely upon all available grounds of attack or defence, whether strong or weak, and if he fails by relying upon a weak ground he cannot agitate the same matter on other and stronger grounds. This verse propounds the same strict rule of res judicata as is contained in explanation 4 of section 11 of the Indian Civil Pro. Code of 1908.

223. ' When there is a document ' — this contains the germ of the rule in section 91 of the Indian Evidence Act prohibiting, when a a contract is in writing, the adducing of other evidence to prove the terms of the contract.

224. ' A document.........time '— This means that the letters may become illegible by lapse of time.

225. Whatever are declared as the conventional usages of the associations of traders, of guilds (of artisans &c.) and of groups (of Brāhmaṇas) and the like, the means of proving them are documents, neither ordeals nor witnesses.

226. Enjoyment alone is weightier in the case of the making and use of doors and ways, as also in the case of water-courses and the like, and not writing nor witnesses.

227–28. In the case of (disputes about) things given (or promised to be given) but not given, in decisions (of disputes) of servants with their master, in the matter of taking back a thing after it is sold and when a person having purchased a thing does not pay the price, in gambling and prize-fighting—when a dispute arises in these matters, witnesses are the means of proof, neither ordeals nor witnesses.

229. When the dispute that is investigated is about ' sāhasa ' (heinous offences) or about physical injury or abuse and defamation and in causes that spring from force, witnesses or ordeals (are the means of proof).

230. In the case of persons guilty of secret heinous crimes the investigation (into their guilt) has to be made by

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225. For ' śreṇi ' (guilds) and ' gaṇa ' vide notes on verse 82 above and also verses 679--80 where Kāt. himself defines ' pūga ' and ' gaṇa '.

226. It is better to read '—bhoge' as Parā. M. does and connect 'kriyā' and '— bhoge' with both 'door' and 'way'. If 'kriyā' and 'bhoga' were taken to be separate subjects of enjoyment, it is difficult to bring out their sense. This verse refers to easements and enunciates the doctrine that they are acquired and proved by undisturbed enjoyment for a long time. Vide section 15 of the Indian Easements Act of 1882. In *Lalubhai* v. *Bai Amrit* I. L. R. 2 Bom. p. 299 at p. 312 this verse is referred to.

227–228. Verse 227 refers respectively to the titles of law called ' dattāpradānika ', ' svāmipālavivāda ' and ' krayavikrayānuśaya '. In ancient India sales and gifts were made without a writing and property passed by mere delivery. Hence as a general rule witnesses were the only means of proof in these cases.

229. Compare बृहस्पति ' वाक्पारुष्ये महीवादे निषिद्धा दैविकी क्रिया । प्रदातव्या प्रयत्नेन साहसेषु चतुर्ष्वपि ॥ quoted in अपरार्क p. 629. Vide Nār. p. 98 v. 241. This verse prescribes an option between ordeals and witnesses.

230. The first part states an exception to the rule in verse 229. The latter half means that ordeals are not to be resorted to simply because there are no witnesses, but only when there is no clue to their

ordeals and by means of reasoning, marks, by the gestures and by the outward manifestations (sweat etc.), by the voice, the eye and movements.

231. In the case of all *sāhasas* (heinous offences) of the gravest kinds, (the judge) should examine the truth by means of (lit. by the eye or sight of) ordeals, even though there be witnesses. (This is the view of) Bhṛgu.

232. Where the witnesses are equal, there also (the judge) should find out the truth by means of ordeals. In disputes about offences entailing death penalty if the plaintiff (or complainant) has recourse to ordeals though there be witnesses, (the judge) should not question witnesses.

233. In (disputes as to) debts the means of proof are declared, through the desire of doing good to the people, to be either a writing or witnesses or some sort of reasoning or the like or divine means.

234. One should prove a debt by means of these in order, viz. urging (dunning) the debtor (to pay) on each occasion, putting forward some argument and the third being oaths.

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guilt by means of even 'reasoning &c.' 'Iṅgita' is explained as 'downcast look and the like' and 'ākāra' as 'perspiration, horripilation &c. due to emotions of fear &c,' though both words are given as synonyms in the lexicon of Amara. Vide Manu VIII. 25–26 for the same means of arriving at mental states.

231. According to Nār. p. 202 v. 3 'sāhasa' is of three kinds viz. of the first, middling and highest degree and according to Nār. p. 203. v. 6 'taking human life with poison, weapons or the like, intercourse with or assault on another man's wife and whatever else that causes destruction of life' is called *Sāhasa* of the highest degree. The minimum fines prescribed for those three kinds (Nār. p. 203 verses 7–8) were 100, 500 and 1000 paṇas respectively.

232. The equality of witnesses on both sides may consist in the number and in their trustworthiness. The offences that entail death are the five mortal sins. Compare बृहस्पति 'महापापाभिशापेषु निक्षेपहरणे तथा । दिव्यैः कार्यं परीक्षेत राजा सत्स्वपि साक्षिषु ॥' (quoted in व्य. मा. p. 316). Vide Manu XI. 54. for the five great sins.

234. The Sm. C. explains 'Codanā pratikālam' as 'urging the debtor for several times in the presence of third persons to pay the debt.' Whenever the time for payment arrives and the debtor though dunned does not protest it is first method.' 'Yuktileśa' means 'you took from me so much money for such and such a purpose in a certain place and at a certain time.'

235. If (the debtor) though urged (reminded) again and again three, four or five times (by the creditor) does not refute (or protest against) the latter's words, he must carry out (pay back) the object (the debts)

236. If dunning be protested against, he (the creditor) should follow him up with arguments relating to the place, the time, the connection (subsisting between the two parties), the amount (of the debt) and the actions (of the two).

237. If arguments also are futile he should decide by means of the ordeals alone such as fire, water, righteousness and the like that may be appropriate to the property involved, the time and the strength (of the defendant).

238. Where a document is declared before the king to be fraudulent (i. e. forged or fabricated), there the king occupying the seat of justice should find the truth by ordeal.

239. In (disputes about) land and in harshness of words (reviling and abuse)(the king or judge) should not prescribe ordeals.

240. In disputes about immoveable property ordeals should be avoided. (The litigant) should establish his claim by means of witnesses, by writing or by possession.

241. In all disputes the king should always give a decision by means of the pramāṇas (documents, witnesses, possession) or by inference or even by ordeals.

235-237. These verses are almost the same as Nārada (ṛṇādāna 236--238) and explain the three methods in verse 234. Vide Nār. p. 97. In 236 what is meant is that the creditor should himself remember the time, place &c. and remind the debtor of them. 'Śapatha' includes both oaths and ordeals. Compare Manu. 8. 109. The reading 'Śapathair-- enam ardayet ' of Nārada means ' he should make him undergo ordeals' and is better.

239. This is not in conflict with verse 229 which gives an option between witnesses and ordeals in the case of ' reviling ' etc. That verse refers to serious offences of reviling while this refers to slight ones.

240. This verse is almost the same as that of Pitāmaha quoted in Sm. C. (III. p. 121) ' स्थावरेषु विवादेषु दिव्यानि परिवर्जयेत्। साक्षिभिर्लिखितेनाथ भुक्त्या चैतान् प्रसाधयेत्॥.' We should read ' parihārayet ' (in the text).

241. ' Inference '-Gautama (XI. 23-24) says that in arriving at justice ratiocination is the means etc. ' (न्यायाधिगमे तर्कोऽभ्युपायः । तेनाभ्यूह्य यथास्थानं गमयेत् ।)

242. Pramāṇa (means of proof) is said to be three-fold, viz. documents, witnesses and possession. The wise say that 'hetu' is inference and tarka (ratiocination).

243. In the absence of each of the preceding (the king should decide) with the succeeding, but never otherwise, (he should decide) by the pramāṇas that are indicated by the litigants, viz. possession, documents and witnesses.

244. No one should prescribe ordeals for the plaintiff (lit. the attacker) ; those who are adepts (in the knowledge) of ordeals should offer ordeals to the defendant.

245. In a reply of denial, it (vyavahāra, the legal proceeding) has four stages (lit. feet) and so in *pratyavaskandana* (reply of special plea) and in the reply of former judgment, but it should be known to have (only) two stages in replies of admission.

246. Defeat is said to be two-fold, viz. declared by another (i. e. by the judge) or by oneself. The former is of ten kinds and the latter is only of one kind.

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243. The first half must be read with verse 241 and it means that if pramāṇas are available he should decide with their help, if not available then by ratiocination and then by ordeals. If no ordeals ars possible, then the king's own discretion is the final arbiter, as Pitāmaha says 'लेख्यं यत्र न विद्येत न भुक्तिर्न च साक्षिणः । न च दिव्यावतारोस्ति प्रमाणं तत्र पार्थिवः ॥' (quoted in स्मृ.तिच. III. p. 123).

244. This means that in a reply of denial, there cannot be an ordeal, as there the burden of proof is on the plaintiff. Yāj. II. 96 notes that ordeals may also be left to the option of tbe parties also i. e. even the plaintiff may undergo an ordeal.

245. In verse 31 above the four stages (*pādas*) of a judicial proceeding are enumerated. In a reply of admission, there is no need to deliberate as to the burden of proof or the means of proof and so there are only two stages, viz. plaint and the reply. The Vy. Māt. p. 284 notes that where the plaint is such that it deserves no reply, there are only two stages, viz. the plaint and the decision (of the court) rejecting it ; similarly where the reply is no real reply, there are only three stages plaint, vitiated reply and judgment in favour of plaintiff).

246. In the reply of admission or confession, the party is defeated by his own words. This is the one kind of defeat due to one's self. The Sm. C. (III. p. 130) notes that what he considered (verse 259) is to be written by another, but his own opinion (verse 261) was to be written in his own hand by the king.

247–248. Going over to another (ground of) dispute (i. e. change of pleading or front), conflict between former and later averments, defects in the production of one's means of proof, lending support to what the opponent says, non-mention of the place of the transaction in dispute, mention of a wrong time and place (for the transaction), bribing witnesses, hatred of saying out things (when examined), putting forward of an improper place and interfering with questions put to witnesses (these are the ten kinds of defeat due to another).

(Documents)

249. Documents are declared to be of two kinds viz. made in one's own hand and made in the handwriting of another; (the first is valid) whether attested by witnesses or not. The validity of both follows from the usage of the country (where they are written).

250. That should be known as a document written in one's own hand which is written by the debtor with his own hand though there are no witnesses (on it); the wise regard it as valid.

251. (One) should should cause the origin (of the parties to the transaction), the caste, the names and the amount of money to be written (in a writing). In this way one remembers what was done; a matter that is not consigned to writing perishes (by lapse of time).

252. A document should be attested by witnesses and should be so written as not to transfer the order of letters (required to express the sense), should observe the local conventional usages (as to documents) and should contain full details as to all matters.

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249. This is Nār. p. 75 v. 135.

250. Yāj. II. 89 affirms that a document written by oneself is valid, even though not attested by witnesses, against the person writing it in the absence of force or fraud,

251. 'Prayuktasya' may also mean 'what is lent at interest.' As to writing perpetuating testimony compare Bṛ. p. 304 v. 2 and Nār, p. 58 v. 70.

253. That document which contains the proper framing of letters and sentences, which is unambiguous, all the letters of which are clearly legible, the stops of which are not lacking in the proper order, attains validity (lit. success or perfection).

254. That writing is called *sthitipatra* (deed of conventions) which is made for the validity of (for preserving intact) the usages of men versed in the four Vedas, of a city, of corporations, of groups and of the citizens.

255. That is known as *vis'uddhi-patra* (deed of purification) which is given to persons with attestations of witnesses when they have performed the penance (prescribed) and have become free from the accusation (of the commission of grave sins).

256. That writing is called a *saṁdhi-patra* (deed of peace) which recites what happened when an accusation is brought (against a person) before all the best (leading) people.

257. A dead of boundaries is made when a dispute as to boundaries is decided.

258. That document is declared to be royal which has on it the king's own hand and which is marked with the royal seal and which is attested by witnesses in all matters.

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253. 'The stops of which &c.' – this is the translation of 'ahīnakrama-cihnam' which may also mean 'the seal on which is not out of order.' This will apply only to a royal document

254. Vyāsa as quoted in Sm. C. (III. p. 135) enumerates eight kinds of writings, viz. cīraka, svahasta, upagata, ādhipatra, krayapatra, sthitipatra, saṁdhipatra and viśuddhipatra. The Sm. C. notes that there are other documents also such as a deed of partition. Bṛ. p. 304 v. 4 divides writings of ordinary people into seven varieties (viz. of partition, gift, purchase, mortgage, agreement, servitude and debt and royal edicts into three. Bṛ. gives definitions of these seven.

256. This verse is rather obscure. What is meant seems to be that a compromise arrived at as to an accusation before the leading people of the place is put down in writing which is then called 'saṁdhi-patra.'

259–264. The statements of the plaintiff and the defendant, the averment (of the plaintiff as to the relief claimed), the statements of witnesses, the decision of the dispute, how the matter was considered by himself (by the king), these should be set out in their order in writing. First the statements of the plaintiff and defendant should be set out, after that the words of the sabhyas, of the judge or of the *family* members and therein also should be written the decision of the case according to the rules of Smṛti and the (final) opinion (of the king). The plaintiff is to be put in possession of the matter that he succeeded in proving after being commended (on his success) and the king should give him a writing under his own hand and he should make the members of the court who were there (at the time of the hearing) and who are proficient in Smṛti to sign (the judgment) as in the case of (other ordinary) writings. A writing executed in this mode the wise declare to be ' paścātkāra '. Where the litigant discharges his burden of proof by resorting to the (prescribed) means of proof only, there (the document) is called paścātkāra ; the term is not applied to all (decisions in all matters).

265. That is *jayapatra* (a document recording victory in a litigation) which is given to those who are cast off (in their cause) because they aver somthing other (than what

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259-264. The latter half of 260 and 261 explain what is meant by ' yathāpūrvam ' in the first half of 260. Kāt. applies the term paścātkāra to a final judgment arrived at after hot contest between the parties, i. e. where all the four stages of a judicial proceeding have been gone through. If there is only a reply of admission or if the suit is decreed *ex parte* or if the plaintiff or defendant is non-suited for being a hīnavādī, then the decision is not a paścātkāra, but it is a *jayapatra* (document of success). ' Kulāni ' (family members) - we saw above in verse 82 that they were the court of lowest jurisdiction. For the contents of judgment compare Civil Pro. Code, Order 20 rule 4.

265. Kāt. restricts the use of the word *jayapatra* to a judgment given in cases of those whose claims are cast off for various reasons without a thorough trial while he applies the word ' paścātkāra (lit. means ' refutation ') to a judgment given after complete contest. Herein he differs from Bṛhaspati, Vyāsa and others who employ the word jayapatra for

was first stated) and other *hīnavādīs* and which contains a recital of what happened.

(Examination of documents)

266. (The judge) having summoned by order of the king should examine as justice requires documents according to the usages about documents (prevalent in the country) and witnesses according to the characteristics of witnesses (laid down in smṛtis).

267. This is 253 above.

268. That is said to be a document marked with the hand of another, which is in accordance with local usage, which gives the year, month, fortnight and the like and the rate of interest, and bears the signatures of the debtor, the witnesses and the scribe.

269 That becomes a false document the letters wherein stand away from their proper places, are not in a line, are ambiguous, and do not possess the characteristics (of genuine writing).

270. (That writing) is defective which is opposed to local usage, which is ambiguous, which is devoid of the proper order (of words and sentences), which is executed by one who is not the owner (i. e. the proper and authorised person) and which is wanting in the (statement of the) matter to be effected (by a document).

271. A document executed by a person intoxicated, or by one under fear or one defrauded, or executed by one who is or

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all judgments. Compare Bṛ. p.298 verses 3-4 for the contents of *jayapatra*. Kāt. seems to have been the first to coin the word paścātkāra. Sm. C. (III, p. 129) gives a definition of jayapatra from Bṛhaspati.– 'पूर्वोत्तरक्रिया-युक्तं निर्णयान्तं यदा नृपः । प्रदद्याज्जयिने लेख्यं जयपत्रं तदुच्यते ॥'

266. The latter half occurs in Nārada (Vide Nār. p. 23 v. 70).

268. Compare Nār. p. 76 v. 136. The words ' rate of interest ' are illustrative and imply pledges and other transactions.

271. Compare Manu VIII, 163, Nār. p. 76 v. 137 and Bṛ. p. 307 v. 23 for very similar provisions. Compare sections 10-12, 15-18 of the Indian Contract Act (of 1872). Manu (VIII. 165 and 168) declares that all transactions brought about by fraud or force are invalid and vide verse 464

by a lunatic or who is distressed (by misfortunes or diseases), by women, by children and by those who are not independent (i. e. who are not their own masters) has no validity.

272. If a person even after (an invalid transaction) is publicly announced does not (take steps to) anual (it) the next day, then it would come to be valid, except transactions entered into by persons intoxicated or lunatics.

273. A document may be vitiated (invalid) owing to the defects of witnesses or of the scribe or to the fraud of the creditor or of the executant.

274. A doccument made by persons guilty of faults becomes vitiated while one made by persons free (from any fault) should be declared to be valid (lit. pure). That document (which is made) by witnesses, writer and executant guilty of deception (becomes vitiated).

275. The defects of the means of proof (such as documents and witnesses), when they are latent, must be declared (pointed out) by the litigant, (who wants to impugn them) at the proper time (viz. when they are adduced in the trial), but the patent defects must be declared by the members of the court at the time (of the consideration of the evidence) by reference to the (rules of) Smṛtis.

276. The defects should be so pointed out that the witnesses, the writer and the executants would be found to be false ; a doccument becomes invalid when these are (shown to be) vitiated.

277. When the opponent (defendant) avers that (the document) was not written by the scribe (by whom it purports to have been written) or that it was not seen by the witnesses (by whom it is attested), then the document is said to be (charged) as false.

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below). In I. L. R. 5 Bom. 99 at p. 104 the text of Bṛhaspati is quoted and it is suggested that 'strīmatta ' should be taken as one word in the sense of ' under female or aphrodisiac influence, ' but this verse of Kāt. shows that that is not a correct way of understanding Bṛhaspati's text, since Kāt. separately mentions ' woman ' and ' matta. '

275. Vide v. 378 below. The words ' by reference etc. ' should be connected with both latent and patent defects.

276-277. These lay down and illustrate the method of pointing out the defects of documents as required by 275.

278. (A litigant) should not challenge a means of proof by (alleging) a defect which is false ; if he were to make a false attack (against the proof adduced by his adversary) he would be liabl› to be fined and would lose his cause (the object he wanted to secure).

279. When (a document) has thus been challenged as invalid before the court (lit. before the royal seat), it should be considered and he (the judge) should examine the faults (alleged) in the doccument, holding consultation with brāhmaṇas.

280. A document becomes vitiated (invalid) by anything that makes the witnesses or scribe or the executant thereof false ; it is to the declared valid (lit. pure or free from faults) if these are free from defects.

281. A document written in his own hand by the creditor and not attested by witnesses would be held to be false, if the maker of it (viz. the creditor) would not be able to establish that it was made by him (with the consent of the debtor).

282. If the debtor denies his own signature made on a document, the matter should be decided by (the evidence of) the witnesses on the document or by the opinion (i. e. evidence) of the scribe.

283. In disputes about documents whether written (by the man denying them) or not, the decision (about the genuineness) of it must be made by (the evidence of) witnesses; when a document is challenged as false, the litigant should cite the witnesses thereon (as his evidence).

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279. 'Holding......brāhmaṇas ' - vide notes on 57–59 above.

280. If the faults poined out by a litigant are not refuted by his) opponent, then the document becomes invalid. Compare 274 (first half which is almost the same as the latter half of this verse.

282. Compare section 68 of the Indian Evidence Act.

284. When in the case of all the three kinds of documents a doubt arises in the minds of men, then one should establish (their genuineness) by producing the signatures of the debtor, the witnesses and the scribe thereof (for comparison).

285. If the scribe along with the witnesses be dead, the document would undoubtedly be proved to be genuine by (a comparison of) their (admitted) signatures and the like (with the signatures on the disputed document).

286. When there is doubt about the signature of the debtor (on a document) whether he be living or dead the decision about (the genuineness of) that document is to be made by (comparison with) other documents executed by him with his own hand.

287. Even when all these (viz. writer, witnesse sand executant) whose signatures are made on the document which bears the royal seal are dead, that document is still held valid even though they are all dead.

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284. Compare Yāj. II. 92 and Nār. p. 78 v. 143. Bṛ. (p. 304 v. 3) divides writings into three sorts, viz. those written by the king (rājalekhya), those written in a particular place (sthānakṛta) and those written by a person with his own hand (svahastalikhita). 'Sthānakṛta' appears to mean 'written by professional scribes appointed by the king or his officers and attested by witnesses.' Compare Nār. p. 75 v. 135. Kāt. is probably referring to this three-fold division made by Bṛ. Vi. (VII. 3) divides documents into three varieties, viz. rājasākṣika (i. e. written by kāyasthas appointed by the king and bearing the signature of the presiding officers), writings attested by witnesses, writings without witnesses.

285. Vide Vi. VII. 13 for a similar idea. Compare section 69 of the Indian Evidence Act and for proof of hand-writing by comparison sec. 73 of the same Act. According to the Sm. C. 'the like' include the gotra, caste etc.'

287. The validity of the document is due to the royal seal which is prima facie evidence of genuineness. This provision is somewhat like sections 59-60 of the Indian Registration Act of 1908 and is a precursor of the solemnity attached to registration as laid down by the Privy Council in 8 Bombay Law Reporter 375. Apar. restricts this rule to a royal edict bearing the royal seal.

288–289. What is directly perceptible is not (allowed) to be overruled by inference ; therefore the decision about a document which is challenged as false is to be arrived at on the testimony of witnesses, since (the debtor or executant) may himself challenge a document as false for securing wealth to himself. A document (without attestations) should be proved to be genuine by (comparison with other) documents and one that is attested by witnesses by the (testimony of) witnesses.

290. When it is alleged that a document is false (the litigant) who would not establish it to be valid by the testimony of the witnesses and of the scribe, should be made to pay the highest amercement.

291. When (a debt) has not been claimed by (the creditor) able to do so from (a debtor) who has wealth enough (to discharge it) and who is near (the creditor), then the bond (recording the debt) loses its strength, as this raises a suspicion that the debt has been paid off.

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288. This applies to a case where a document is attested by witnesses and the debtor or executant denies it. In such a case the court is not to rely on comparison of the debtor's signature on the document with other admitted signatures of his. This process would be one of inference. Hence witnesses are in such a case to be examined and their testimony is weightier than mere comparison of handwriting. A witness is so called according to Manu (8. 74) and Vi. (8. 13) and Nār. pp. 79-80 verses 147-148 because he has himself seen or heard a matter or experienced it, i. e. his testimony is direct. The latter half restricts comparison of handwriting to a document which bears no attestations and it occurs in Nārada (ऋणादान verse 145), where Asahāya explains it differently, while the translation above follows the interpretation of the Sm. C.

290. Apar. construes the verse differently : 'when an allegation, of falsity is made as to the writer (i. e. executant) of a document.' The highest fine was 1000 paṇas according to Manu VIII. 138 or 1080 according to Yāj. I. 366.

291–292. Vide Bṛ. p. 308 v. 28 for same verses. Not being seen or read out to anybody leads to the inference that it was not meant to be acted upon, as it was neglected for a long time. Compare Bṛ. p. 309 v. 31 ; also Nār. p. 77 v. 141 for a very similar verse.

292. A document (executed) beyond thirty years, which has never been seen (by anybody) nor read out (by the creditor to anybody), does not attain validity even though the witnesses (on it) be living.

293. If a man does not show a document even though the debt (evidenced by the document) has ceased to bring interest and if he does not press the debtor (for payment), the document loses validity.

294-295. (The judge) should consider very carefully a document that is put (purports to be) in the form of a *pas'cātkāra* (judgment after contest). If such a document stands (the test of) reasoning, then it is valid ; otherwise it should be cast aside and he (the judge) should again decide (the matter in dispute). When what is not true has been established as the truth through ignorance, it should be set aside, even though it was established as valid with effort by (former) kings.

296. A (royal) edict becomes valid when it is free from defects as to the seal (thereon), as to the mode of writing it, as to its enjoyment (or custody), when it has the proper characteristics (of an edict) and when it bears the genuine signature of the king.

297. That writing which is free from faults and which is made known (to the people round about) attains validity.

298. If the debtor does not declare the patent defects of a document even when he has seen it, the document when it has stood (unchallenged) for twenty years becomes firm (i. e. unchallengeable thereafter).

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293. The Sm. C. explains that this happens when the debtor is near at hand and is well able to pay.

294-295. For *pas'cātkāra* vide verses 259-264 above. Vide verses 495-496 as to review of judgment.

296. 'Kriyāśuddha ' is explained by the Sm. C. as meaning 'free from ungrammatical words and from the fault of disconnected words. '

298. 'Debtor ' – this word is only illustrative and stands for all who are affected by a document. This prescribes a period of twenty years for avoiding voidable documents.

299. When a thing is enjoyed for twenty years on a writing in the neighbourhood of (an opponent) able (to challenge the enjoyment), then that writing becomes free from defects.

300. If for twenty years a pledge has been undoubtedly enjoyed, then the pledge becomes valid by that writing and free from defects (even if they existed at its inception).

301. When a dispute as to boundaries is decided, a deed of boundaries is made ; faults therein must be declared up till twenty years therefrom (and not thereafter).

302. Where a debt is consigned to writing accompanied with the pledge (of a thing as security for the debt), that (writing) is regarded as valid, even if the witnesses be dead, provided there is (some) slight enjoyment by the creditor (of the thing pledged).

303. A document, even though not bearing a seal and even though the witnesses thereon be dead, is valid if he (the executant) has obtained something (on the strength of the document from the creditor) or has paid back (something) though not specified (on the document itself).

304. If (the creditor) has received something (from the debtor) or if (it be proved that) the creditor made an open assertion (that he holds a document against the debtor), then the document is valid even though the witnesses thereon be dead.

305. A document, which is openly shown on each occasion, is read over or of which others are reminded, becomes valid in all cases even when the witnesses are dead.

299-300. Apar. says that verse 298 refers to a document that is vitiated in its inception, while verse 299 refers to a document which is not vitiated but the witnesses on which are not living or which cannot be compared with other admitted documents. In the latter case twenty year's enjoyment under the document makes the thing belong to the enjoyer. Verse 300 gives an illustration of verse 298 with reference to things pledged under a document which has some defect.

305. ' Openly shown etc. ' – This means ' when it is shown to assemblies of people in the village or of traders etc. whenever an occasion to show it could arise' (such as for demanding periodic interest etc.). This verse explains what is meant by ' prajñapti ' (open assertion) in v. 304. Vir. p. 200 ascribes this to Nārada. It is Nār. p. 77 v. 140.

306. A document is in no case cast off by ordeals or by witnesses. The mode (of proving a thing) by writing is always superior and hence it is not cast off by any other mode.

307. The proof by writing can be refuted (or superseded) only by another annulling document relating to the same matter or by a document (again) made specially for the same matter and not by any other means of proof (such as witnesses.)

308. Just as the reflection (of a thing) made in a mirror is seen as if it were something real, though it is non-existent (unreal), so clever people fabricate copies of documents (i. e. they can fabricate writings resembling the genuine handwritings of other persons).

309-310. When a writing is given to another after taking money (from him), where a writing is concealed, when it is in the hands of another or when it is confined in another's house, where money is given or returned by first passing a writing, this should be understood to be the rule in deciding about the genuineness of documents.

311. He who makes a false document about the sale or mortgage of immoveable property, should be deprived of his tongue, hands and toes, when he is properly proved (to be a forger).

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306. The witnesses here spoken of are not those on a document. This verse says that oral evidence cannot prevail over a document. Compare Bṛ. p. 309 v. 31.

307. The idea is that one document (such as a mortgage or sale) can be annulled only by another document which reverses what was done before (such as a reconveyance or resale) or by a document of later date embodying the same transaction. Compare sec. 92 of the Indian Evidence Act on the prohibition as to allowing oral evidence for altering or varying the terms of a written contract or grant.

308. The Sm. C. (III. p. 148) quotes a similar verse from Vyāsa 'लेख्यमालेख्यवत्केचिल्लिखन्ति कुशला नराः । तस्मान्न लेख्यसामर्थ्यं तु सिद्धि-रैकान्तिकी मता ॥. Compare Bṛ. 307 v. 20 and Nār. p. 23 verses 69, 71–72.

309–10. The meaning and context of these verses is not quite clear.

312. When a document is broken by dirt (soiled by dirt), when it is burnt, when it becomes perforated, when it has passed away (into another country or in another's hand) and when it is rubbed off owing to perspiration, another document should be caused to be written.

(*Possession*)

313. Documents, witnesses, possession – these are regarded as three *pramāṇas* (means of proof). Among human pramāṇas, possession is regarded as equal to a faultless (valid) document.

314. When there is doubt (dispute) about a way, doors for exit (and entrance), water-courses and the like, undoubtedly possession is the weightiest among means of proof.

315. A witness is weightier than mere inference, a document is weightier than witnesses (i. e. oral evidence); unbroken possession for three generations is weightier than all these.

316. Reliance should not be placed on (mere) possession by the wrongful possessor or his son (as his strong point) in the case of beasts, women and men (slaves). This is the settled *Dharma* (Law).

317. Possession is declared to be of two sorts : viz. with title and without title. Possession which continues for three

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312. Compare Yāj. II. 91 and Nār. p. 79 v. 146.

313. Compare Nār. p. 58 v. 69.

314. Verse 313 declared 'documents' and 'possession' as equally weighty means of proof. This verse declares that in certain disputes (about easements) possession is superior to the other *pramāṇas*. Vide verse 226 above. Nār. (p. 60 v. 77) emphatically declares that as regards immoveables possession counts most (is nine points of law) even though there be a document and witnesses.

315. Vide Manu VIII. 25-26 for signs from which inferences were to be drawn about intention or other mental states of men. What is meant by 'three generations' is made clear by Kāt. himself in v. 318.

316. Vide *Lalubhai* v. *Bai Amrit* I. L. R. 2 Bom. 299 at p. 310 for explanation of this verse.

317. 'Āgama' means 'origin of title' or 'title'. According to Bṛ. p. 309 v. 2 ownership of immoveable property can be acquired in seven ways, viz. by learning, purchase, mortgage, conquest, as

generations is independent (means of proof of ownership without actual proof of title), but if it is less (than for three generations), then it (is proof of ownership) if accompanied with title.

318. Possession from the grandfather is superior, possession from father also is approved; unbroken (possession) for these three generations (viz. grandfather, father and the

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dowry (with wife), inheritance in a family, and succession to kinsmen. Nārada as quoted in Sm. C. mentions six sources of ownership, viz. by inheritance in family, gift, purchase, conquest, marriage and succession to a childless kinsman. Vide Gautama 10. 39-41 for sources of ownership. Vide Bṛ. p. 313 vv. 26-27 for a similar proposition about possession.

318. There has been a great deal of divergence of opinion among the sages and nibandhakāras as to what length of possession would by itself constitute ownership. Nārada laid down that possession within living memory cannot confer ownership if unaccompanied by title, but when it is enjoyed for three generations and thus passes beyond living memory (i. e. when it is asmārtakāla) it becomes independently proof of ownership (vide Nār. p. 62 v. 89 and p. 63 v. 91 and Bṛ. p. 313 vv. 26-27.) But there is no unanimity as to what is meant by three generations. The Mit. on Yāj. II. 27 says that 'smārtakāla' (time within living memory) is one hundred years as the Veda declares that 'man lives for a hundred years.' Three generations would approximately extend to 100 years and so enjoyment for three generations is another way of saying the same thing as asmārtakāla. The Par. M. (III. p. 142) says that according to one smṛti each generation means a period of 35 years 'वर्षाणि पंचत्रिंशतु पौरुषे भोग उच्यते'; while according to Bṛhaspati, quoted in the same work, each generation is a period of thirty years (vide Bṛ. p. 313 vv. 23-24). 100 years are rather too long a period and so Vyāsa cut down three generations to sixty years and Kāt. is of the same opinion. Yāj. II 24 (literally interpreted) appears to have been satisfied with only 20 years in the case of immoveable property and ten year's enjoyment in the case of moveables. Various interpretations of this verse of Yāj. were proposed in order to avoid its conflict with the dicta of other sages. Viśvarūpa explained that the real purport of this verse is to enjoin upon a man to be vigilant about his property (and not apathetic), since if another enjoyed his property for twenty years without any protest, there was danger of his being defeated in a court of law and that this verse did not lay down that twenty years' enjoyment would confer ownership on a wrongful possessor. The Mit. and most other writers of digests explain this verse as prescribing that the owner, if he allows another to enjoy his property for 20 or ten years, would lose the produce (or

man himself), extending over sixty years, becomes firm (i. e. independent means of proof as to ownership).

319. When anything has been held under proper possession accompanied by title, the possessor gets it (i. e. becomes complete owner of it), it can then in no case be taken away from him (by judicial proceedings).

320. A litigant who relies only on possession and who has lost the document of his title should state in the assembly (of justice) the (length of) time (of his possession), the means of proving that (i. e. possession) and (the source of title such as).gift.

321. (In cases falling) within the memory of man, it is desirable that possession must be accompanied with title in order to be proof (of ownership) as to land ; but in cases beyond the memory of man possession extending over three generations in succession (is independent and valid proof of ownership), since there is no certainty that there is no title.

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profits) of his property if he were to sue for the profits (but he would not lose the property itself). The Vy. Māt. connects this verse of Yāj. with the preceding and says that it means that if a donee, vendee or pledgee allows the property to remain for twenty years with the donor, vendor or pledgor and then the latter transfers it to another, the first dealing, though prior, is of no effect. Manu (VIII 147), Nār. (p. 60 v. 79) and Gautama XII. 34 also say, that if a chattel be enjoyed for ten years by another before the very eyes of the owner without protest from him, he loses his ownership.

319. The Vy. Māt. explains that 'proper' means for twenty years. If a man in possession can show legal origin for it and also twenty years' enjoyment, his title to the property is perfect.

320. Vide Nār. p. 62 v. 86 which says that he who pleads only possession but does not adduce title is to be considered a thief.

321. 'Anugama' is explained by the Mit. and most other commentators as 'certainty that there is no title', while Kalpataru explained it as 'āgamānusandhāna' (vide Vir. 205) and Vy. Māt. as 'trace or connection of title' (āgamasya anvayaḥ). Vide my notes on V. M. p. 60 for detailed explanation. This is the same as Nārada (ऋणादान v. 89) except that the latter reads भुक्तेः for भूमेः and लिखिताभावे for अनुगमाभावात्.

322. As regards the first (possessor) title is the means of proof (of ownership); as regards those in the middle (i. e. the second and third generations) enjoyment accompanied by title (is the means of proving ownership), but unbroken possession for three generations is by itself the means of proving ownership (in the fourth generation).

323. The (first) occupant, though he may have possession, should clear (by evidence) the defects (alleged) in the document (under which he holds), but his son (or grandson) should clear only the defects in possession and would not suffer for (lit. obtain) the defects of the document (of his title).

324. Whatever property has been (first) acquired by a man, if he were impeached (by another), he should clear (his title to) it. In his case possession, even though he enjoyed the property for a long time, is not desired (as the proof of ownership).

325. (The king or judge) should not out of greed interfere with possession which is immemorial and not known (to have originated without title).

326. When a property has been enjoyed by (a man's) father according to the usual mode of enjoying (the property), that (man), when the father is dead, should not be called upon (to prove title), since he got that property (from his father) by enjoyment.

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322. 'Dānam' (gift) stands as illustrative of sources of title. The first possessor must show legal title ; in the case of his son and grandson, they have to put forward some title and also possession, while the fourth generation can rely only on possession for three prior generations (and need assert no other title). Compare Yāj. II. 27 about the relative strength of title and possession.

323-324. Compare Nār. p. 63 v. 90, Bṛ. p. 313 v. 25 and Yāj. II. 28. The Mit. explains that the first occupant is liable to fine if he cannot show title, his son and grandson need only show immemorial possession and they are not liable to fine even if they show no title nor immemorial possession. In the latter case they may at the most lose the property. Vide 'आगमस्तु कृतो येन स दण्ड्यस्तमनुद्धरन् । न तत्सुतस्त-त्सुतो वा भोग्यहानिस्तयोरपि ॥' quoted in स्मृतिच. III p. 165 and मिता. on या. II. 28.

326-327. Both these are Vi. V.186-187. Compare Bṛ. p. 313 v. 26.

327. When a land has been duly enjoyed by three generations, the fourth secures it (as owner) even in the absence of a document.

328. Just as milk produces by lapse of time curds which is full of taste, so possession transmitted for three generations becomes the source of conferring (ownership) by lapse of time.

329. That possession which is unbroken and of long standing (immemorial) is strong (valid independently) in law. Possession, even though interrupted, (is valid) provided it was established by an ancestor (as based on title).

330. One should not put forward (mere) possession (as proof of ownership) in the case of women (female slaves), temple property and state property, of the property of minors and those who are learned in the Vedas and as to (what is inherited) from the father and mother.

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328. Compare Nār. p. 63 v. 91 and Bṛ. p. 313 v. 27.

329. This is the same as Bṛ. p. 314 v. 31. The principle is the same as that underlying Art. 142 of the Indian Limitation Act, viz. if a man establishes title and dispossession by another within twelve years before suit, he succeeds in ejectment 'Strong' means 'rendering futile a document etc. opposed in tenor to it.'

330. Compare Manu VIII. 149, Vasiṣṭha XVI. 18 Nār. (p. 61. v. 81), and Bṛ. p. 312 v. 21 (who mentions idiots and Yāj. II. 25. 'Temple property' – Compare section 10 of the Indian Limitation Act (1908) as amended by Act I of 1929 according to which there is no limitation for a suit for following trust property in the hands of a trustee or in the hands of his legal representative or voluntary assignees or for an account when property has become vested as a religious or charitable endowment in him . 'State property' -- compare Art. 149 of the Indian Limitation Act which prescribes sixty years for any suit by or on behalf of the Secretary of State for India in Council ; 'minors' - compare section 6 of the Indian Limitation Act in favour of minors, lunatics and idiots. Vide Gautama X. 48-49 according to which the property of minors and students was to be under state protection until they attained years of discretion and until return from their teacher. Vasiṣṭha 7–8XVI ; 'from the father or mother'- compare the rule of modern judicial decisions that the possession of one co-heir is not necesarily adverse to the other co-heirs. Vide notes below on verse 335 and verse 844 for the age of majority

331–333. If a brahmacārī, who was engaged in his vow (of Vedic study) extending over thirty-six years and a man in pursuit of wealth who remains in another country for a long time, were to return (from his teacher's house) and being free from his vow were to look out for his wealth, then enjoyment extending over fifty years will (alone) make him lose his property (by the possession of another). Twelve years are declared to be the period for studies for (mastering) each Veda and the time (of apprenticeship during which possession by another does not become adverse) for those who learn crafts is said to be the period required till they become masters in them.

334. The property of these (students of Veda and of crafts), which was enjoyed by their friends and relatives while they were absent and of those who have been convicted by the king (and imprisoned), is not lost by lapse of time.

335. When a thing has been enjoyed by a man's agnates and cognates and by his own people, there (ownership of the thing) would not result from mere possession; one should regard possession (as leading to ownership) in others (than these).

(*Reasoning*)

336. That man, who, when besought (for repayment) by the litigant (creditor) three, four or five times, does not employ a refutation (of the assertion) becomes (established as a) debtor after that.

331-332. ' Thirty six years ' - A Brāhmacārī had to spend 12 years in the study of each of the three Vedas. Vide Manu III. 1 Gautama II. 51 and 52, Yāj. I 36. ' Samāvartana ' – means 'returning from the teacher's house after finishing Vedic study and taking the ceremonial bath. ' Vide Manu III. 4, Gautama II. 55, Vasiṣṭha VIII. 1.

335. Compare Bṛ. p. 310 v. 11. This contains the principle that the possession of one co-owner or tenant-in-common is ordinarily the possession of all and that the mere fact that the profits of a property have been enjoyed by only one tenant-in-common for many years or that he alone is in sole possession does not by itself amount to the ouster of others and is not necessarily adverse to them. Vide I. L. R. 46 Bom. 213, 31 Bom. L. R. 199 and 1030 (P. C.), 47 Cal. 274.

336. Compare Nār. p. 97 v. 237. If a creditor several times addresses a debtor saying ' you owe me money ' and the debtor does not protest against such assertions, he will be held to be a debtor.

337–338. Offer of a bribe, effacing the means of recognition, holding out a temptation (to the witnesses or sabhyas) and suppressing the expression of one's thoughts (on the face etc.) – these are the means of establishing (a claim against a person). Where the denial (of liability) by a litigant is clearly made, if one of these is clearly established by the opponent, then the matter charged (such as a debt) is established as against him.

(*Witnesses*)

339. The king should not delay in making the witnesses depose. A serious fault, viz. turning away from justice, would result from delay (in examining witnesses).

340. The king should himself examine the witnesses that are present (in court) and should consider along with the members of the court the statements made by witnesses.

341. Where it is doubtful who the witnesses (on a point) are, time should be given for (producing) witnesses in order that proper means of proof may be found out ; but where it is clear (who the witnesses may be) he (the judge) should make the trial proceed at once.

342–343. The judge should in a conciliatory manner question in the following way all the witnesses inside the court and in the presence of the plaintiff and the defendant : 'whatever actions of these two (plaintiff and defendant) among themselves you know as regards this transaction, narrate them all in accordance with truth, since you are the witnesses in this matter.'

337–338. ' Effacing etc. ' – means tampering with one's signature or other sign that would establish one's liability' according to Vir. p. 225. Read ' prajñāpanābhedaḥ ' as one word.

339. This applies where it is quite clear who the witnesses may be. But where that is not clear, time has to be given.

340. ' The king ' – this is illustrative and includes a judge.

342-343. Compare Yāj. II. 13 and Gautama XIII. 5. These two verses are the same as Manu VIII. 79-80.

344. (The judge) should, himself being pure, question in the first part of the day, and in the presence of gods (idols of gods) and brāhmaṇas men of the three first castes as witnesses for truth, they being pure and standing facing the north or the east.

345. (The judge), after having summoned all the witnesses, and having bound them strongly with oaths, should question them separately, the witnesses being men of known character and conversant with the matter (in dispute).

346. The statement of a witness as to whatever has been perceived (or experienced) by him because of his being in the presence of the plaintiff and the defendant (at the time of the transaction) should be accepted (as relevant evidence) and not otherwise. So says Bṛhaspati.

347. The testimony of those, whose family and characters are well-known, who are free from avarice and folly, who are truthful, pure, and men of eminence, leaves no room for doubt.

348. (The opponent) should be proved by the plaintiff (to be what he is alleged to be) by (the evidence of) witnesses who are similar to the opponent (in caste). A litigant of a lower caste should not establish (his case) by (the evidence of) witnesses of higher castes.

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344. This is the same as Manu VIII. 87. ' In the first part of the day ' – vide verses 60–62 above. Compare कौटिल्य p. 176 'ब्राह्मणोदकुम्भाग्निसकाशे साक्षिणः परिगृह्णीयात्. '

345. This is Nār. p. 91 v. 198. Compare Vi. VII. 19.

346. Vide Manu VIII. 74, Vi. VII. 13 for the proposition that a witness is one who has himself seen or experienced what he deposes to. Compare section 60 of the Indian Evidence Act (of 1872). This rule means that the oral evidence must be direct and not hearsay.

347. Compare Gautama XIII. 2, Manu VIII. 63, Yāj. II. 68 and Nār. p. 81 v. 153. Here ' āptāḥ ' means ' those who speak the truth, ' while it means a different thing in v. 361.

348. The latter half of this is not quite clear. We must probably read नोत्कृष्टैश्चावकृष्टस्तु. Vide verse 351. Yāj. II. 69 says ' यथाजाति यथावर्णं सर्वे सर्वेषु वा स्मृताः (i. e. the witnesses may be of the same class or caste as the litigant or men of any caste may be witnesses for a litigant of any caste). Vide Nār. p. 81 v. 154 (for the same option as in Yāj.), Gautama XIII. 3.

349-350. Those who wear symbols peculiar to thei sects, śreṇis (guilds), pūgas (associations), companies of traders and all others who form groups (or combinations) – these are called *vargas* by Bhṛgu. The leaders of the communities of slaves, bards, wrestlers and of those who subsist by elephant driving, horse-riding and the profession of arms-these are in each case called *vargin*. When these have a dispute with members of their own group (varga), vargins (leaders of the respective groups) are their (proper) witnesses.

351. Women should bear witness for women (when women are litigants), for (litigants of) the first three castes (witnesses should be of) the same caste as themselves, well-behaved śūdras for śūdra (litigants), and men of the lowest castes such as Cāṇḍālas should be witnesses for lowest castes.

352. Where it is impossible to bring (as witnesses) those who stay in a different country, there the cause should be decided on evidence consigned to writing and sent by men learned in the three Vedas.

353. Even a single person is made to depose as a witness if he was taken in confidence at the time of making a de-

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349–350. For śreṇi, pūga and vrāta vide vv. 82, 225 and 679-80. Compare Nār. p. 81 v. 155 for a similar rule. Gautama XI. 21-22 lays down that in disputes between agriculturists, traders, cowherds, usurers, and artisans the king should decide on the evidence of their headmen.

351. This is Manu VIII. 68 and also Vasiṣṭha XVI. 30 (but in prose).

352. This refers to evidence taken on commission. The idea is that the court should depute a learned man to take the evidence of a witness staying in a distant land and the evidence thus taken down in writing by the person deputed should be read at the trial. Compare Order 26 (rules 4 and 5) of the Civil Pro. Code.

353. The general rule is that there should be at least three witnesses. Vide Yāj. II. 69 and Nār. p. 81 v. 153. Bṛ. (p. 301 v. 16) says that there should be nine, seven, five, four or three witnesses, or only two if they are brāhmaṇas learned in the Vedas, but a single person was never to be examined as a witness. This verse states an

posit; the messenger, sent by a litigant, is a proper witness, though he is alone (i. e. the only witness in that case).

354. (In disputes about manufactured articles such as ear-rings) one should establish (identity of) that thing by (the evidence of) that man who produced the finished article; in such disputes he, though alone, is declared to be the means of proof.

355. The scribe, the judge, the members of the court – these in order are declared to be witnesses (singly) when a cause has been investigated by the king.

356–357. There are others declared as witnesses though not so appointed (made or intended) by the parties, viz. the village (i. e. co-villagers), the judge, the king in the case of those who had judicial proceedings (before him), one who knows intimately the affairs (transacted by the two parties); one deputed by the claimant (to ask for a loan or to transact a business), and in disputes between members of a family even the members of the family may be witnesses.

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exception to this rule. A dūtaka is defined by Bṛ. (p. 300 v. 8) as one who is a respectable man, esteemed and selected by both parties, who comes near to listen to the speeches of the plaintiff and defendant. The reading 'yācite' for dūtakaḥ would mean 'in the case of a loan of an ornament etc.'

354. This reading is much better. It means that the person who was sent to fetch an article on loan and who brought it is singly sufficient to prove what or how much was lent in case of dispute. All that this verse means is that one witness will do, even though many or even two are not available. This verse does not restrict the evidence to the manufacturer alone. Vide Vir. p. 151.

355. Where the plea of res judicata was raised, the evidence of even one of these was relevant. Compare Bṛ. p. 300 v. 14.

356–357. These verses are the same as Nār. p. 81 vv. 151–152 except that Nārada reads first-half of 356 as 'षडेते पुनरुद्दिष्टाः साक्षिणस्त्वकृताः स्वयम्.' Witnesses are of two kinds 'kṛta' (made or appointed by the party) ' and 'akṛta (not so appointed). These two verses enumerate six kinds of 'akṛta' witnesses. Nār. (p. 80 vv. 149-150) says there are six kinds of 'akṛta' witnesses and five kinds of kṛta witnesses viz. likhita, smārita, yādṛcchika, gūḍha and uttara. Bṛhaspati (Bṛ. p. 296 vv.1--2) enumerates twelve kinds of witnessess लिखितो लेखितो गूढः स्मारिताः कुल्यदूतकौ । यादृच्छिकश्चोत्तरश्च कार्यमध्यगतोपरः । नृपोध्यक्षस्तथा ग्रामः साक्षी द्वादशधा स्मृतः। (quoted in व्य. म. p. 34 and व्य. मा p. 321). Kāt. appears to combine both Nārada and Bṛhaspati.

358. In disputes about the shares of ancestral property, when a doubt arises, the statements of members of the family are means of proof, but not in other cases.

359. If one out of the witnesses that subscribe themselves (on a document) and that have been appointed (or cited) by the litigant deposes in a way different from (the others), all those become incompetent witnesses on account of contradiction.

360. Where a person is appointed by a man as a witness, the other party should not make him depose as his witness. In the absence (or death) of that person (who appointed the witness) a person deputed by him or a relative should make him depose (as a witness).

361. Those who depend for livelihood upon the subsistence given by a party, those who wait upon him or are his benefactors, those who are his relatives or friends or servants – these are his *āptas* and are not competent witnesses.

362. The sons of one's mother's sister, the son's of one's full sister and one's maternal uncles—these are said to be *sanābhis* (connected with same womb), these should not be employed as witnesses.

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358. Compare Bṛ. p. 299 v. 7.

359. Generally three witnesses were cited by a party to prove a transaction; supposing one of them deposed in one way and the other in another way, the two nullify each other If the matter were to be decided on the testimony of the third, the result would be that the decision would have to be based on the words of one witness only. Therefore in such a case all the three witnesses become incompetent. But this verse cannot apply to a case where there are ten witnesses on a document, three of whom depose in one way and the rest in another way. In such a case the rule that the testimony of the majority or of men of higher character should be relied upon will have to be followed. Vide Nār. p. 95 v. 229, Bṛ. p. 303 v. 35, Yāj. II. 78, Manu VIII. 73 and Vi. VIII. 39 for the latter rule. Compare Nār. p 83 v. 160 for a rule similar to the one in 359. For the definition of subscribing witness (likhita). vide v.371

360. The Sm. C explains that if anybody were allowed to cite anybody as a witness, whether appointed by him or not, he would be 'svayamukti' (and so an incompetent witness according to Nār. p. 83 v. 161).

361. This verse explains the word 'āpta' occurring in the list of incompetent witnesses in Manu VIII. 64 and Yāj. II, 71.

362. This verse is probably meant to explain 'sanābhi' in Nār, p. 87 v. 180,

363. Members of the same family, persons having an interest (in the subject-matter of the suit), one connected by marriage (with one's son or daughter), sister's husband, the father, a *bandhu* (a relative), paternal uncle, father-in-law and teacher – (these are incompetent as witnesses).

364. Those who are appointed (by the king) over towns, villages and districts and to positions (of responsibility) and those who are the favourites (of the king) – these should not be asked (to depose as witnesses); they are the men of the king and devoted (to him).

365. In (disputes) about debts and the like, in which the transactions are of a fixed (or permanent) nature, witnesses should be tested (as to their competency), but testing (of witnesses) is very rare in *sāhasa* (wrongs attended with force) or heinous crimes and in matters of an urgent nature.

366. In transgressions of royal commands, in adultery, in sāhasas (heinous crimes), in theft, and in pāruṣya (abuse and assault and battery), the judge should not test (the competency or character of witnesses).

367. If the attack (or complaint) be with reference to what took place inside a house or at night or outside the village, one should not inquire into (the character or competency of) witnesses.

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363. ' Person having &c. ' – This seems to be the same as ' arthasaṁbandhinaḥ ' in Manu VIII. 64 and Nārada (ṛṇādāna 177). Compare Bṛ. p. 302 v. 29 for the whole verse.

364. Vide Nār. pp. 86–89 vv. 177-187, Manu VIII. 64–67, Vi. VIII. 1-5 and Yāj. II. 70-71 for long lists of incompetent witnesses. This verse explains the word ' rājapuruṣa ' in Nār. p. 89 v. 185. Being the king's officers or favourites, it is likely that the king or judge may be unduly prepossessed in their favour.

365. Compare Gautama XIII. 9 (न पीडाकृते निबन्धः), Manu VIII. 72, Vi. VIII. 6, Yāj. II. 72, Nār. p. 89 v. 189. In such cases any person may be a witness, but the circumstances of age and other disqualifications mentioned above may detract from the weight of the testimony.

367. Compare Manu VIII. 69-70.

368. When not asked by the litigant (to be witnesses), persons should not depose as witnesses ; he who of his own accord takes upon himself to be a witness can not have the position of a witness (at law).

369. A witness is of two-fold mode (lit. path), viz. subscribing a document (as a witness) and one who is apart from it.

370. If a person has subscribed a document in his own hand and is the only surviving witness (out of all the attestors) and cannot recognise (the attestation) as his own, it (his attestation on the document) should be established by (comparison with other admitted) signatures of his.

371. That witness is called 'likhita' (subscribing witness) who is brought by the litigant himself and who (whose name) is placed on a document (as a witness) ; a 'smārita' (reminded witness) is one who (becomes a witness) without being subscribed on a document.

372. He is styled 'smārita' (reminded) who, being shown a transaction, is again and again reminded of it by the litigant (a party to the transaction in order that the transaction) may be (effectively) proved (thereafter).

373. He who is brought for some purpose and he who comes (at the time of the transaction) casually – these two are witnesses, who are not subscribing witnesses, but establish the assertions in a plaint (about the transaction seen by them).

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369. Vide प्रजापति 'साक्षी द्विभेदो विज्ञेयः कृत एकोपरोऽकृतः । लेख्यारूढः कृतो ज्ञेय उत्तरोऽकृत उच्यते ॥' (quoted in स्मृतिच III. p. 184). The first stands for the five kinds of appointed witnesses and the latter (uttara) refers to the 'akṛta' witnesses.

370. Compare section 71 of the Indian Evidence Act.

371. Compare Bṛ. p. 299 v. 3 which is clearer. Bṛ. p. 299 v. 4 explains who is called 'lekhita' (who does not subscribe himself, but whose name is put in his presence by another on a document).

372. This explains the words 'स्मारितः पत्रकादृते' in 371. Compare Bṛ. p. 299 v. 6 for a similar definition.

373. Both these are 'यदृच्छाभिज्ञ' in नारद (ऋणादान 150). The person casually coming or brought for a purpose is asked to bear witness to the transaction and although he and the 'smārita' are both not 'likhita' (subscribing witnesses), there is a difference between them inasmuch as they are not again and again reminded.

374. He is called a secret witness, who is made by the plaintiff to listen while remaining concealed to the clearly expressed words of the defendant in order to establish his own object.

375. That witness is called 'uttara' (indirect) who deposes as a witness over and above the (direct witnesses) because he listens (to what they have seen) or is made to hear what they have heard.

376. He should be known as a secretly moving witness (gūḍhacārī) and also as one intimately bound up in the transaction (kāryamadhyagata) to whom something has been divulged through confidence or a transaction has been communicated in confidence (by both parties).

377. Where the plaintiff (i. e. the creditor or one party to a transaction) is dead there the witness is called 'mṛtāntara' (separated by death) and where the defendant (i. e. debtor &c.) is dead, there also the same (term) is ordained (for the witness).

(*Proclaiming the weak points of witnesses*)

378. Whatever faults there may be in documents or

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374. Compare Bṛ. p. 299 v. 5.

375. This is the same as Bṛ. p. 300 v. 11. Bṛhaspati gives two verses on 'uttara,' the other being on p. 300 v. 10. They are not really two definitions, but one. Vi. VIII. 12 says 'उद्दिष्टसाक्षिणि मृते देशान्तरगते वा तदभिहितश्रोतारः प्रमाणम्' which is the same as Bṛ. p. 300 v. 10. When a direct witness is about to die or to go to a foreign land, a person who hears what he says about a transaction witnessed by him becomes an uttara witness. Vide notes to V. M. p. 66 for further explanation.

376. We must distinguish between 'gūḍhasākṣi' defined in 374 and this. Dr. Jolly translates both as 'secret witness.' This is the same as Bṛhaspati 'उभाभ्यां यस्य विश्वस्तं &c.' (quoted in वीरमित्रोदय p. 145 and अपरार्क p. 667). It is better to read उभाभ्यां for उह्याप्यं as Vir. and Apar. do. गूढचारी and कार्यमध्यगत are two names for the same kind of witness. If we read गूढधारी (who holds the secret of both parties), that would be a better reading, but it is not well supported. Dr. Jolly's translation of Bṛ. (p. 300 v. 12) is not accurate.

377. When the party for whom a witness is to depose is himself dead that witness is called 'mṛtāntara' and he ceases to be a witness. Vide

witnesses, they should be proclaimed at the time of the trial. (The judge) should not hold the witnesses ineligible (on account of faults) after they have deposed.

379. After a matter has been narrated (by witnesses) he who would point out faults in witnesses in whom he did not find fault at first and who cannot set out (a proper) reason (for not proclaiming them at first) should be fined in the first ammercement.

380. (A litigant) should not challenge the means of proof (witnesses here) by (pointing out) faults that do not exist; if he were to make a false charge (about the faults of witnesses) he would be liable to fine and would also lose his claim that he wants to establish.

381. When the defendant or the plaintiff attempts to establish faults in the witnesses (cited by his opponent), it is not (to be deemed) a separate proceeding (and therefore as irrelevant) because it (establishing faults in witnesses) is useful in (deciding) the matter in hand.

382. The faults of witnesses (cited by a party) should be declared by (his) opponent in the open court, after writing

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Nār. p. 83 v. 162 and p. 66 v. 94. Vy, Māt. p. 326 explains that a witness becomes 'mṛtāntara' either when the creditor or debtor for whom he is to depose is dead, or when the subject of the transaction viz. the slave, bull or chattel) is dead or lost. Nār p. 82 v. 157 mentions 'mṛtāntara' as the last of the five classes of witnesses who cease to be so.

378. Here 'uktān' qualifies 'witnesses' and means 'uktavataḥ (when they have deposed). Vide notes to V. M. p. 74 for further explanation. This is the same as Bṛ. p. 302 v. 25, where Dr. Jolly translates differently.

379. 'First ammercement.' - This is a fine of 250 paṇas or 270 paṇas (vide Manu VIII. 138 and Yāj. I. 366).

380. Vir. (p. 164) reads 'vāpi' and so holds that there is an option (viz. he may either be fined or lose his cause).

381. When faults are pointed out in a witness tending to affect his veracity or character, that is part of the trial of the suit and not a separate proceeding, but if further witnesses are allowed to be cited to prove the character attributed to him, then it would lead to

them all down on paper (or leaf) and then (the witness) should be made to reply to them (to meet the faults).

383. In case of the admission (of the faults in the witnesses cited), they do not deserve to be witnesses (in the the cause tried); if it be otherwise (i. e. if the faults be not admitted), they (the faults) should be established by the opponent by offering proof of them.

384. The opponent, not clearly establishing the faults (pointed out in) the witnesses, should be made to pay a fine ; all the witnesses that are established (as faulty) become bereft of the character of (proper) witnesses.

385. (The judge) should discern the (real) intention (or mental state) from the outward manifestations (such as sweat, horripilation), the gestures (looking down at the ground &c.) and physical movements ; the litigant becomes a losing party and he is found out (to be so) by inference (from the signs mentioned above).

386. Shaking (of the body), perspiration, languishing (of the body), dryness of lips, licking (of the corners of the lips with the tongue), scratching the ground (with the toes), restlessness (lit. leaving the place where one stands), looking sideways or upwards (towards the sky), change of voice— these the wise declare to be the signs of a false (party or witness).

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examination of witnesses *ad infinitum*, as these latter witnesses again may be attacked by examining others and so on. Vyāsa quoted in अपरार्क, व्यवहारमातृका and स्मृतिच० makes this clear 'अन्यैस्तु साक्षिभिः साध्ये दूषणे पूर्वसाक्षिणाम् । अनवस्था भवेद् दोषस्तेषामप्यन्यसंभवात् ॥.' Compare sections 146 and 153 of the Indian Evidence Act.

384. We should understand 'doṣam' after 'sākṣiṇaḥ' and connect 'sphuṭam' with 'abhāvayan'.

385. This verse primarily applies to the parties, but the same rule holds good in the case of witnesses. 'Prativādī' here stands for both the sides (each of which opposes the other). Compare Manu VIII. 25-26 for almost the same ideas and words. These signs do not decide the matter, but they raise great suspicion and they make the judge and *sabhyas* scan the whole evidence very carefully.

386. Compare Yāj. II. 13-15 and Nār. p. 90 v. 193-196, Vi. VIII. 18 for similar signs. The reading 'vaivarṇaym' (losing colour, paleness or darkness of face) is better and is supported by the text of Yāj.

387. Witnesses should give their deposition inside the hall of justice and not anywhere else; this is the rule as regards all oral evidence; but it is otherwise as regards immovable property.

388. Witnesses should depose in the presence of the plaintiff and the defendant and near the matter to be established (in the suit) and never behind the back (of the parties).

389. Depositions should be taken down near (lit. over) the matter (in dispute) and in some cases even in places other than these two; this is the rule in (disputes about) quadrupeds and about bipeds and immovable property.

390. In all judicial proceedings (lit. where proof has to be given) witnesses should be made to depose even in the absence of things that are to be weighed (like gold), that are to be counted (like coins) or that are to be measured (like corn), but not in other cases.

391. In the case of the killing of living beings, witnesses should be made to depose in the presence of (an image of)

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387. In the case of immovable property, the evidence may be taken on the property itself.

389. The words 'tayorapi vinā kvacit' are explained in one way by Sm. C. and Par. M. and in another way by V. M. and Vir. The former say, witnesses are to be examined in court and may be examined also on the immovable property in suit. These are two places (tayoḥ) for the examination of witnesses; but in rare cases (kvacit) depositions may be taken elsewhere as said in verse 391. According to V. M. and Vir. the word 'kvacit' is illustrated by the latter half i. e. in disputes about cattle &c. or about slaves &c depositions may be taken near the subjects of disputes and 'tayoḥ' is taken by V. M. to refer to the parties.

390. When the matter to be secured by litigation is gold or coins or grain, witnesses were to depose in court even without these being in court.

391. As Śiva is the god of destruction, it was probably thought that in the case of slaughter of human or other beings, depositions should be taken in a temple of Śiva. If we read 'Śava—', as the Par. M. does, the verse can be more easily construed. It would mean: witnesses should depose near the corpse, or in its absence

S'iva; but (this should be done) in the absence of any marks (of the animal killed or of killing) ; but when it is otherwise (i. e. when some mark exists) the witness should not be made to depose at all (in the temple of S'iva ?).

392. The words of the witnesses when free from faults should be taken down as naturally narrated by them; when the witnesses have stated (what they know), they should not be questioned by the king again and again.

393. Whatever the witnesses narrate naturally should be accepted as useful for deciding the legal proceeding; whatever they say otherwise than in this way is useless for the purpose of (finding out) the truth.

394–395. Whatever was observed by witnesses in a group should be deposed to in the same way (i. e. simultaneously) but what was seen by each separately should be deposed to separately. When a certain matter was known (perceived or experienced) by witnesses at different times, they should depose separately and at different times. This is the view of Bhṛgu.

396. In disputes about recovery of debts and the like which are of a permanent character, if witnesses depose to more

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near some mark (such as horn &c.) of the animal killed. Here ' tadabhāve ' means ' Śavābhāve ', but if we read Śiva, then ' tadabhāve ' cannot mean Śivābhāve ' (as temples of Śiva must have been found everywhere in Kātyāyana's day) and ' tat ' there means ' sākṣyam ' and ' abhāve ' is to be connected with ' cinhasya '. The Vir. (p. 168) goes so far as to explain that when there is a mark then there is no need of deposition of witnesses. Vide my notes to V. M. p. 75.

393. ' Naturally ' means ' without fear and the like. '

394–395. It is noteworthy that earlier writers like Aparārka ascribe these verses to Kāt. while later ones ascribe them to Vasiṣṭha. Compare Gautama XIII. 5 and vide Vir. p. 169 which notices Haradatta's explanation.

396–397. ' Of a permanent character ' —This refers to civil disputes like recovery of debt, in which there is no urgency, while in crimes there is urgency. Verse 396 lays down that if witnesses are cited for proving the whole of a claim and they depose to more

or less (than what is alleged in the plaint), then the entire claim does not certainly succeed.

397. When witnesses depose only to a part of the matter alleged (in the plaint or reply) in charges of adultery, heinous crimes (*sāhasa*) and theft, the whole of the matter that is alleged may be held proved.

398-399 Where (the statements of witnesses) are less or more (than what is affirmed by the parties), the depositions of witnesses should be omitted (from consideration); the witnesses in such a case are not liable to fine; he (witness) deserves to be fined if he does not depose (to what he knows). When the depositions of witnesses are in conflict as to the place, time, the amount of money, the number, colour, the species, the form or shape and the age (as stated in the plaint or reply), the wise say that the depositions are (as good as) not given.

400-401. When several matters have been definitely asserted (in the plaint or reply), if the witnesses, when the time for deposing arrives, do not make a statement coinciding with the

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or less than the claim, the whole claim is not established i. e. by the mere proof of a part, the whole claim will not be awarded, as there will be doubt in the court's mind as to the truth of the claim. He will then have to adduce other evidence to prove the claim. Compare Yāj. II. 79, Nār. p. 96 v. 234 and Bṛ. p. 303 v. 32 for the same proposition. Vide verse 219 above, which applies where the opponent totally denies every item of the claim and the plaintiff establishes some of the items claimed. Verse 473 applies where a son is called upon to pay his father's debts and he says he does not know There he cannot be said to deny the whole claim and so the principle of verse 219 cannot apply. Vide verse 365 for 'sthirakarmasu' applied to 'debt and the like'. In 397 it is laid down that even when witnesses are cited to prove all facts stated in the complaint about certain heinous crimes and they depose to only some of them, the whole may be held proved.

398-399. This applies to civil disputes like recovery of debts, as in 396. For the fine for not giving evidence vide Yāj. II. 76. For 399, compare similar provisions in Nār. p. 96 v. 233 and Bṛ. p. 393 v. 33.

400-401. Verse 400 is the same as Nārada, ṛṇādāna 232 , and 401 is almost the same as Nārada, ṛṇādāna 234. It would be better to read 'anuktam' in 401. As both these verses do not add to what

statement (in the plaint or reply), that testimony becomes no testimony. Where witnesses depose to matters either more or less (than those in the plaint or reply), that should he regarded as improper (testimony); this is the certain conclusion about (the testimony of) witnesses.

(*Faults of witnesses and fines imposed on them*).

402–403. If deposing to everything even when not asked or not replying to what is asked, witnesses should be arrested, censured and fined according to the (rules of) law. In the case of abuse (defamation or libel), and in case of deceit they (witnesses) should be made to pay a fine of three hundred (paṇas) and in disputes about (recovery of) debts and the like, they should be made to pay the amount of fine and also the debt (in dispute).

404. A witness who has not been appointed (as a witness at the time of the transaction in dispute), or who is not summoned (as a witness) or who is not pointed out (as a witness) should be fined, since he is a vile person, when he deposes saying 'this is true, that is false.'

405–406. If one who has witnessed a transaction would not depose as a witness, he would have to bear (i. e. pay) the debt (in dispute) and an equal amount of fine, but in disputes other than this (i. e. other than debts) he deserves to be fined three hundred. Witnesses who, having first said one thing, depose contrary to that should be fined, since they are full of deceitful words.

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is stated in 396, 398 it is probable that Sar. ascribed them to Kāt. through oversight. Kauṭ. says ' साक्षिणश्चेदाभियोगादूनं ब्रूयुरतिरिक्तस्याभियोक्ता. बन्धं दद्यात् अतिरिक्तं वा ब्रूयुस्तदतिरिक्तं राजा हरेत् (text p. 176). Vy. Māt. (p. 312) has a long note on verse 400 in which he refutes at length the views of Yogloka on this verse.

402–403. Compare Gautama XIII. 6 ' अवचनेऽन्यथावचने च दोषिणः स्युः ' Yāj, II. 77, Bṛ p. 303 v. 31 and Vi VIII. 37. The Sm. C. notices that in v. 403 ' they ' refers only to witnesses who do not reply to what is asked.

405–406. For 405 Compare Manu VIII. 107 (which prescribes a fine of one-tenth of the debt in dispute), Yāj. II. 76 (who also prescribes only one--tenth). Kauṭ (p. 177)cites the view of the Mānavas 'कूटसाक्षिणो यमर्थमभूतं वा नाशयेयुस्तद्दशगुणं दण्डंदद्युरिति मानवाः.' Here, ' das'aguṇam ' is probably a wrong paraphrase of ' das'abandham in Manu VIII. 107.

407. (The king) should seize all the wealth of the man who through the greed of (winning) the cause cited false witnesses and should then banish him from the country.

408. When a matter (in dispute) has been established by the plaintiff by means of witnesses, if the defendant were to prove that matter to be otherwise by more witnesses (than those for the plaintiff) or by witnesses of better family, then the witnesses first deposing become false.

409. When the means of proof are shown to be faultless according to the rules of law, then comes the (business of) testing of their statements (lit. sentences). The fixed rule is that that matter must be regarded as faultless which follows from faultless testimony.

410. Where a witness tells a falsehood, it would be found out in a week or two weeks or three weeks or 46 days (in the guise of) disease, fire or death of (near) relative (befalling a false witness) according to the difference in the material (in dispute) or the caste (of the witness).

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407. Vide Manu VIII. 123 which according to some interpretations prescribes the drastic punishment of death or cutting off of the tongue for persistently engaging in false claims and banishment to brāhmaṇas; and Mit. on Yāj. II. 81 (which gives various interpretations of Manu VIII. 123).

408, ' Witnesses of better family '— this is only illustrative and means witnesses who are of better character or standing or more meritorious. Vide Yāj. II. 80. The Mit. on Yāj II. 80 does not accept this interpretation and says that the texts of Yāj. and Kāt. apply to a case where the plaintiff cites a number of witnesses some of whom are near and some far off and examines only those who are near and is about to fail on their evidence, when he should be allowed to examine better witnesses from far off, if already named.

409. ' Kriyā ' means the ' pramāṇas viz. documents, witnesses, possession. ' ' Śuddhi ' means ' removing or absence of the several faults as to writings and witnesses laid down in the Śāstra'. This verse must be connected with verse 340 above, which enjoins upon the judge the duty of scrutinizing the statements of witnesses.

410. This verse means that the king should wait for a week or two weeks &c. after finding a witness to be false to see if any of the calamities mentioned befall him and then fine him. Compare Manu VIII. 108 (for waiting for a week) and VIII. 120-121 (for fines for perjury). ' Jāti ' may also mean ' the species of the thing in dispute '. Sar. (p. 150) quotes Viṣṇu शतनाशे षट्चत्वारिंशद्दिवसप्रतीक्षणम् द्विशतनाशे त्रिसप्ताहप्रतीक्षणम् । पञ्चशतनाशे द्विसप्ताहप्रतीक्षणम् । सहस्रनाशे सप्ताहप्रतीक्षणम् ॥ १ ॥

(Ordeals and their assignment according to the several titles of law).

411. No one should appoint the plaintiff (or complainant) to the (undergoing of) ordeals. Those who are experts in ordeals should offer ordeals to the defendant (or accused).

412–413. The ordeals of balance and others should be appointed in the case of those who are suspected by kings (of treason, sedition &c.) for proving the purity of their intentions. In such cases no undertaking to pay fine should be laid down (as a condition before ordeal is offered). The ordeals of balance and others should be appointed in the case of those who are labouring under scandals among the people and who are suspected of association with dasyus (robbers). In such cases there is no undertaking to pay a fine (as a condition before ordeal is offered). (This is the view of) Bhṛgu.

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411. This states the general rule about offering ordeals. Vide Nār. p. 101 v. 257 and Yāj. II. 95–96, which say that when the plaintiff files his action with the undertaking to pay a fine or undergo bodily punishment if he were defeated, ordeals were to be offered to defendant or there is an option i. e. by mutual agreement any one of the parties may undergo ordeal. The Chāndogya Upaniṣad (VI. 16) contains one of the oldest and clearest references to ordeals. Among the older Dharmasūtras Āpastamba (II. 11.29.6) refers in general terms to divine method of proof but gives no details. Manu only (VIII. 109--116) refers to administration of oaths and alludes to ordeals of fire and water (VIII. 174). Vi. IX– XIV speaks of five ordeals (of balance, fire, water, poison and Kośa). Yāj. II. 95 speakes of the same five but seems to have known of phāla also (II. 99). Nārada (ṛṇādāna verses 251--348) adds the ordeals of 'taṇḍulabhakṣaṇa' and 'taptamāṣa' to the five of Yāj. and Vi., Bṛhaspati (Bṛ. p. 315 vv. 4--5) and Pitāmaha speak of nine (adding 'phāla' and 'dharmaja' to the seven of Nārada). Pitāmaha gave the most elaborate treatment and about 200 verses of his on ordeals are quoted in the digests. Kāt. distinctly names seven but seems to have known more (vv. 460--461).

412-413. 'Śiras' is explained as 'the undertaking to pay a fine if one were defeated', since 'fine' is the fourth (and so last and most important part) *pāda* of vyavahāra depending on victory or defeat and therefore is called 'śiras' or 'śīrṣaka'. In these cases mentioned in 412--413 there is no necessity to insist on somebody undertaking to pay a fine or undergoing corporal punishment. The important matter is to clear one's character and so the man may at once offer to undergo an ordeal when charged with any one of them.

414. In charges based on suspicion no undertaking to pay fine or undergo corporal punishment should ever be laid down (as a condition) in offering the ordeal of ' kośa. ' Ordeals should be offered to the servants of the king without (the requirement of) an undartaking (to pay fine &c.).

415. The ordeal of ' kośa ' alone should be offered in cases of securing confidence when there is suspicion , always at the time of partition among members of the same family and when several persons do one act in a body.

416. Where there is a denial of a gift (lit. of a thing given), (the judge) should (first) find out the standard value of the thing in gold and should then settle which, if any, ordeal was to be offered . In the case of theft and heinous crimes (*sāhasa*) ordeal should be offered (to the accused) even when the subject (of the crime) is of slight value.

417. Understanding the price of all things (that are the subject of dispute), (the judge) should find out (their equivalent in) gold and then he should appoint the (proper) ordeal in accordance with the amount of gold (in dispute).

418--419. After ascertaining (for the value of the subject matter in dispute) the number of *suvarṇas* it is declared that in the case of denial (by the accused or defendant) of a hundred (suvarṇas) poison (is the proper ordeal), for

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414. ' Kos'a ' ordeal is always meant only for proving ' cittaśuddhi, ' so it is to be undergone without an undertaking when one is simply suspected. In plaints of a serious character, even the ordeal of kośa cannot be offered without an undertaking. Vide Yāj. II. 95. For latter half, compare Nār. p. 105 v. 270.

415. ' Kriyāsamūhakartṛtve ' may also mean ' where there are several persons on whom the burden of proof lies in various ways. ' Vir. p. 229 explains as above. ' Kośa ' ordeal consists in drinking three handfuls of water used in bathing the fierce gods like Durgā, the Sun at the time of worship. Vide Yāj. II. 112, Nār. p. 116 v. 329.

417. Compare Vi. IX. 4. 'सर्वेष्वेवार्थजातेषु मूल्यं कनकं कल्पयेत् '.

418-419. The Mit. says that Yāj. II. 99 (that neither the ordeal of ploughshar nor poison nor balance was to be offered up to a

denial of eighty suvarṇas, (the judge) should offer fire. For denial of sixty (ordeal of) water should be offered, and for forty (ordeal of) balance, for the denial of twenty or ten (suvarṇas) drinking of sacred water (kośa) is prescribed.

420--421. In denial of more (suvarṇas) than five and up to one fourth of that the ordeal of taṇḍula, but in the denial of one fourth of the last (the person should touch) the head of his son and the like ; in denial of one fourth of that, it is declared that ordinary modes of proof (viz. oaths) should be employed. A king thus deciding (disputes) does not fall away from *dharma* (righteousness) and *artha*.

(*The offering of ordeals according to the castes and avocations of the plaintiff and defendant.*)

422. (The king) should appoint the ordeal of fire for a Kṣatriya, balance for a Brāhmaṇa and water for a Vāiśya or he may appoint any ordeal for all castes but the ordeal of poison is to be eschewed in the case of a brāhmaṇa.

423. (The king) should offer (ordeal) to the members of the three higher castes who are cowherds, traders, artisans, bards, servants and usurers as if they were śūdras.

424. He should not offer ordeal of fire to blacksmiths and water to those who ply watercraft, and never poison to those who are experts in *mantras* (incantations) and *yoga* practices ; he should not appoint taṇḍulas to him who is observing a vow (such as subsisting on milk alone) and to one suffering from mouth-disease.

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thousand) refers to a thousand copper paṇas. Compare Bṛ. p. 316 vv. 9-12. For suvarṇa vide notes on verses 493-494 below.

420–421. 'More than five'-means six and upwards ; $\frac{1}{4}$ of six and over would be $1\frac{1}{2}$ and more. 'Should touch the head of his son.' This was a kind of special oath. Compare Manu VIII. 114 and Nār. p. 100 vv. 247-250. The V.M. (text p. 46) quotes a verse of Nārada not found in Dr. Jolly's edition 'स्पृशेच्छिरांसि पुत्राणां दाराणां सुहृदां तथा । अभियोगेषु सर्वेषु कोशपानमथापि वा ॥' which is similar to Manu VIII. 114. The three goals of life are dharma, artha and kāma. Vide Kauṭ. I. 7. Philosophers add a fourth 'mokṣa.'

422. Compare Nār. p. 117 vv. 334–335.

424. Compare Vi. IX. 25 and Nār. p. 101 v. 255.

425. He should omit fire (ordeal) in the case of those who are lepers and water in the case of those who suffer from difficulty in breathing and cough; he should always omit poison in the case of those who suffer from (excess of) bile and phlegm.

426. The ordeal of kośa (sacred water) should not be offered by the wise to drunkards and persons addicted to women, to gamblers and those who are irreligious in their life.

427–430. A king bent upon dharma should not prescribe ordeals for those who are charged with killing their mother, father, a person of the three higher castes, a teacher, a child, woman and king, those who are guilty of the grave sins and particularly those who are irreligious, those who wear (or subsist by means of) peculiar sect-marks, those who are great rogues, those who are experts in *mantras* and *yoga* practices, those who are the progeny of mixed unions, those who repeatedly engage in sin and in charges of the above description and in all other censurable matters. The king should offer ordeal (in the case of these men) to good men appointed by these (to undergo an ordeal); where good men do not desire (to undergo ordeal for them), the king should test their innocence by (offering ordeal) to their own men (i. e. their relatives and friends).

431. Ordeal should not be offered (to be performed in person) to those who are guilty of grave sins and specially to those who are irreligious and to those who are addicted to repeated commission of sins.

432. In these disputes (the king) should vigilantly make (the persons charged) undergo the ordeals through good

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425. Compare Vi. IX. 29 and Nār. p. 101 v. 255.

426. Compare Nār. p. 117 v. 332.

427–430. For the five great sins vide Manu XI. 54. What is meant is that these persons should not be called upon personally to undergo an ordeal and it is not meant that ordeals should not be employed in their cases.

431. This practically repeats the latter half of 427 and the last quarter of 428.

men (though) forbidden (to them in their own person); he should not leave the person charged of sin (without testing his guilt or otherwise by ordeals); (this is the view of) Manu.

433. But in the case of the untouchables, the lowest castes, slaves, mlecchas and those who are the offsprings of mixed unions in the reverse order of castes when guilty of sins the determination (by the above named ordeals) should not be done by the king. He should indicate such ordeals as are well-known among them in case of doubt (about their guilt).

(*The proper place of ordeals*)

434–435. (The king) should employ (ordeals) in a well-known temple in the case of men who are accused of the grave sins and near the royal gate in the case of those who engage in treason. Ordeal should be offered in a public square where four roads meet to those who are the progeny of mixed unions in the reverse order of castes; the wise declare that in cases other than these ordeals should be offered inside the *sabhā* (hall of justice).

436. He (the king) should appoint whatever ordeal is proper, when the time or place is in conflict (is not appropriate); he should make another (a person appointed by the

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433. When a male of a lower caste enters into union with a woman of a higher caste than his own, it is said to be a *pratiloma* union. The Divyatattva (p. 579) of Raghunandana explains that the ordeals well-known among these people are those of the snake in the jar and the like. This explanation is copied by the Vir. p. 238 and the V. M. p. 49. The Sm. C. explains that this rule is to be followed when relatives appointed by them for undergoing ordeals cannot be had.

434–435. The Par. M. explains 'Indrasthāna' (lit. place of Indra) as implying any temple of a well-known deity; while the Divyatattva explains it as 'place where the banner of Indra was raised' and the Vir. p. 241 follows this. The Indradhvaja was a festival in honour of Indra in the bright half of Bhādrapada from the 8th to the 12th (11th being the principal day). Vide the Bṛhat-saṁhitā of Varāhamihira chap. 43. Compare Nār. p. 104 v. 265 which says that the balance was to be planted near the royal gate or near a temple or where four roads meet.

436. Vir. p. 238 and V. M. p. 49 reads '-śāvirodhe' (when the

accused) undergo the ordeal ; this is the rule when the opposite is the case (i.e. when the accused cannot undergo ordeal in person).

437. When (ordeals) are administered at an improper time or place and when they are performed outside human habitation (i. e. in a lonely place), they always fail as to the matters in hand ; there is no doubt about this.

438. If the means (i.e. the ordeal employed) fails, then the matter to be decided should again be investigated (by other ordeal); even when ordeals are offered by fools, greedy persons or by others who are vitiated (by some defect or other) and undergone they should be ignored by the king and he should offer them again in accordance with what is said above.

439. Therefore an ordeal should be administered according to the rules prescribed by persons expert (in those rules). If an ordeal is administered against the rules, it is not capable of establishing that (matter in hand).

440. When the scales or the balance or the rope breaks and when there is a doubt as to whether (a man's) innocence has been established, (the king) should again test the man (by ordeal).

(*The procedure of fire ordeal*)

441. If the accused (undergoing the fire ordeal) misses his footing or is burnt elsewhere than in the proper place, the gods declare that it is no burning, the king should again offer him (fire ordeal).

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time and place do not conflict). This seems to be better.

437. The idea is that they cease to be decisive of the matters in dispute when so administered. Dr. Jolly (Nār. p. 250 v. 15) renders ' constitute a deviation from the proper course of a law suit,' but this is not accurate.

439. Bṛ. p. 317 v. 18 is almost the same verse.

440. Compare Vi. X. 13.

441. ' The proper place ' viz. the hands in the fire ordeal (and not other parts of the body).

(The procedure of the water ordeal)

442--445. For establishing innocence (by water ordeal) he should make ready arrows the points of which are not made of iron and which are made of pieces of bamboo and the archer (lit. the person throwing) should throw (the arrows) with great force. When (the arrow) is discharged (the accused) should dive (into water) and simultaneously with the diving (another person) runs (to the place where the arrow fell); when he reaches that place, (another man) starts back (from the place to the place whence the arrow was shot) and another man stands in water (whose thighs the man undergoing the ordeal and diving holds underneath the water). If only the head (of the accused) diving in water be seen (by the person who returns to the place whence the arrow was shot) and neither the ears, nor the nose, then he (the king) should declare him to be innocent. If a man after diving again rises up (over the water), being bitten by an (aquatic animal), he should again dive into the water when the marks of the bite have been shown.

(Procedure of the ordeal of poison)

446. That is known to be the S'ārgiṇa poison which resembles the horns of a goat, is dark and yellow and produced from the peaks (of mountains) and looks like ginger when crushed.

442–445. Vide my notes to V. M. p. 108 for the whole process of the water ordeal. In 444 read ' śiromātram. ' vide Nār. pp. 111-113 verses 305-312 for a complete description of this ordeal. 'He should again dive into the water ' – i. e. he should undergo the ordeal again. We should read in 445 with the Divyatattva (p. 601) ' daṣṭaḥ ' and ' daṁśacihna. '

446. It is better to read ' supītam ' and 'śārṇgiṇam'. Nār. (p. 115 v. 322) speaks of Śārṅga poison from the Himālayas as the poison to be given in ordeal and Kāt. appears to be explaining it. Dr. Jolly translates 'śārṅga ' as ' from śṛiṅga plant, ' which is doubtful. Viṣṇu XIII. 2-3 has ' विषाण्यदेयानि सर्वाणि। ऋते हिमाचलोद्भवाच्छार्ङ्गात् । ' and Yāj. II. 111 ' एवमुक्त्वा विषं शार्ङ्गं भक्षयेद्धिमशैलजम्।' That is said to be 'Śṛṅgaka poison,' which being tied to a cow's horn makes her milk blood-red.

447. That (poison) makes the blood dark and hard (clotted) in a moment. In this way those who are expert in ordeals should know (this) ordeal.

448–449. That should be known as Vatsanābhaka, which is yellow and like the navel of a calf and appears like mother-o pearl and conch when crushed ; it is known for certain from its colour. It should be at once made pure by adding to it honey and milk. Those who carry out (the dictates of) dharma declare the outward signs (of poison) in this way.

450. One should give poison (as an ordeal) to a person in the forenoon and in a cool place. The poison should be mixed with 30 times of ghee and should be pounded into fine powder.

451. He should give to the person to be tested (by poison ordeal) poison less by one-eighth from the 20th part of the sixth part of a *pala* of poison and it should be mixed with ghee.

(The procedure of the ordeal of sacred libation).

452. In the case of slight wrongs (or crimes) the person charged should be made to drink the water of the weapons of the deities after bathing them (in worship); if he undergoes change he should be declared to be guilty and should be punished, but if otherwise he (should be declared to be) innocent.

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451. *Pala* is equal to 960 *yavas*. vide Manu VIII. 134–135. 1/20 of 1/6 of a *pala* is equal to 8 *yavas* and when one-eighth is deducted, it is seven. So seven *yavas* of poison were to be given as a general rule. This verse is the same as Nār. p. 115 v. 323. Verse 324 of Nār. says that seven or eight *yavas* may be given in winter, only five in summer and six in the rainy season.

452. 'If he undergoes change' - i. e. if some calamity befalls him (as indicated in vv. 410 and 457). Nār. p. 116 v. 330, Bṛ. p. 311 v. 24, Vi. XIV. 4–5 say that if he meets with a calamity in a week or fortnight it shall be regarded as proof of his guilt. Compare for the kośa ordeal, Yāj. II. 112, Nār. p. 116 v. 329, Bṛ. p. 318 v. 23 (whatever deity the accused happens to be devoted, let the judge bathe the weapon of that deity in water and give him to drink three handfuls of water).

(The procedure of the ordeal of taṇḍulas)

453. In the case of the ordeal of the water of the bath of deities and in the ordeal of chewing rice, the accused (is declared to be) innocent if what he spits out is pure (not streaked with blood); if otherwise, he is guilty and should be punished.

454. (The king or judge) should make the plaintiff (or complainant) who attacks (the defendant) with pride pay a fine and also the subject-matter of dispute, when the defendant is found to be innocent by means of the *kos'a* ordeal. A religious king should honour the person who is (found to be) innocent by means of an ordeal.

455. Where (in an ordeal of taṇḍula) blood is seen (i.e. issues forth from the mouth) or the hair on the chin sink (ar) shattered or fall off) and the whole body trembles, (the judge e should declare the man to be guilty.

456-457. (The judge) should sedulously make the accused pay, after three weeks, in case of the befalling of fateful calamities (on the defendant undergoing the kośa or taṇḍula ordeal), a fine and the subject of dispute. If any one of the following befall him alone and not all people (in the neighbourhood,) viz. disease, fire, the death of a near relative (like son or wife), then he should be made to pay the fine and also the debt (i. e. subject of dispute).

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453. It is better to read, as V. M. does, ' digdha ' for ' divye. ' The Taṇḍula ordeal was administered in case of theft only and in it grains of rice were placed in an earthen vessel in the sight of the image of the Sun and after pouring over them water in which an image of the sun had been bathed and keeping them in that way for the night the judge gave the water to the accused in the morning. Vide Nār. p. 118 vv. 338-342 and Bṛ. p. 318 v. 25.

455. This is Nār. p. 119 v. 342 where we read दन्तजालं च शीर्यते 'whose tooth-flesh is shattered' for हनु etc.

456-457. ' Daivavisaṁvāda ' – it means ' the non-correspondence shown by fate. ' Verse 458 enumerates some of the strokes of fate from which one was to judge. Compare Nār. p. 116 v. 330. If many people suffer from an epidemic (including the person undergoing an ordeal), that was no sign for the inference of guilt or defeat and the disease must be serious and not slight.

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458. The diseases brought on men by (the wrath of) Fate are tuberculosis, diarrhœa, boils, pain in the palate and bones, eye disease, throat disease and so also seizure (by evil spirits), headache, fracture of the arms.

459-461. (The king) should cause fifty (paṇas) to be paid by the man who is found innocent (by ordeal) and one who is found guilty (by ordeal) is liable to pay a fine. In the ordeals of poison, water, fire, balance, sacred libation, rice grains, and in the ordeal of taptamāṣa, (the judge) should prescribe a (special) fine (for the defeated party) of a thousand paṇas, six hundred, five hundred, four hundred, three hundred, two hundred or one hundred respectively and a lesser fine in the case of lesser ordeals (than these).

(*Procedure of Oaths*).

462. Where some (religious) rite is enjoined, but there is no express mention of the limb of the person doing (with which it is to be done), there the right hand is to be understood as meant for carrying out to the end the rites (enjoined).

463. He on whom no terrible calamity due to king or fate befalls up to the fourteenth day should be regarded as pure by taking oaths.

459-461. The fifty *paṇas* that the innocent man has to pay is not a fine but is in the nature of return (modern court fee) to the state for the services of the judge etc. Compare Vi. VI. 21 for successful plaintiff paying 1/20 (to the king). Verses 460-461 specify the special fine to be paid on account of defeat by the several ordeals in addition to the fine laid down for the defeated party by Manu VIII. 59 and Yāj. II. 11. Vide Mit. on Yāj. II. 113. For 'taptamāṣa' vide Nār. p. 119 vv. 343-348, Bṛ. p. 318 v. 26 and V. M. pp. 83-84 (text), which last gives two varieties of it.

462. This occurs in the Kātyāyanasmṛti (I. 8 on *ācāra* published by Jivananda in his collection vol. I. This means that if a person was to touch the head of his son or wife as a special oath, he was to do so with the right hand.

463. This is practically the same as Yāj. II. 113. Compare Manu VIII. 115. For the various forms of oaths vide Manu VIII. 113-114, Nār. p. 100 v. 248.

(Consideration of the transactions entered into by those who are lunatics or dependent and the like.)

464. What is gifted or done by one intoxicated or one who is a lunatic or by one who had a different intention, that does not at all attain validity.

465. The master may cancel a transaction entered into by one who is dependent (on him). The other party cannot file a suit against the master (on such a transaction) except as regards transactions entered into by those who were under a fear or those who were mad.

466. The father is independent (is his own master), but (the son) whose father is living, the brother (whose elder brother is living), the brother's son, a younger member who has not partitioned his share of the family wealth, a slave and a menial (are dependent).

467-471. The gift, mortgage and sale of fields, houses and slaves entered into by those who are dependent do not attain validity, if they are not approved of (by those on whom

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464. Vide verse 271 above. ' Who had a different intention ' – This means that both parties to a transaction must take it in the same sense. If the executant thought that he was executing one transaction (e. g. a mortgage) and what was actually written was a different one (e. g. a sale), then he could avoid. Compare Kauṭ. III. 1 (p. 148) तत्रापि क्रुद्धेनार्तेन मत्तेनोन्मत्तेनापगृहीतेन वा कृता व्यवहारा न सिध्येयुः ।.'

465. Transactions entered into by those who are coerced or those who are mad can be annulled only by the king; hence they are excepted but transactions, entered into by those who are declared to be *asvatantra* on behalf of their masters, can be repudiated by the master himself Vide Nār. pp. 50–51, vv. 33-34 for an enumeration of those who are *asvatantra.*

466. Read ' pitā svatantraḥ ' and understand 'asvatantraḥ' after ' pitṛmān '. Compare Nār. p. 29 vv. 29–31 (for son, slave and younger brother) and Kauṭ. III. 1 (p. 148) ' मिथः समवाये चोपह्वरकृताः सिध्येयुः । अतोन्यथा न सिध्येयुः । अपाश्रयवद्भिश्च कृताः पितृमता पुत्रेण पिता पुत्रवता निष्कुलेन भ्रात्रा कनिष्ठेनाविभक्तांशेन ' &c.

467-471. ' When they are supported ' etc. i. e. when they enter into the transactions with the permission or approval of their masters. For the propositions in 467-469 compare Nār. pp. 49–50 vv. 26-27 and 29 and for 470 compare Bṛhaspati ' यः स्वामिना नियुक्तस्तु धनायव्ययपालने ।

they are dependent). All these (dependent persons) have authority for the sale and purchase of marketable goods, if they are supported (by their masters) when they enter into the transactions. In the same way the (younger) brother, the brother's son, or the son (have authority for the sale &c.) of fields and the rest, if they are appointed (authorised) to enter into these transactions by their elders when going (abroad). Whoever is appointed to do a certain act is master as regards that matter and his master has no power to undo the transaction entered into by him. The dependence (on the father or husband) of the son or of the wife (consists only) in his (father's or husband's) right to control them (or their actions), but the father has no power over the son so far as selling or gifting him is concerned.

(Decision of the suit)

472. Purification is declared by those who know the essence of śāstras to be the remedy (for wrong-doing); it is two-fold, viz. prāyaścitta (expiatory rites) and punishment.

कुसीदकृषिवाणिज्ये निसृष्टार्थस्तु स स्मृतः ॥ प्रमाणं तत्कृतं सर्वं लाभालाभव्ययोदयम् । स्वदेशे वा विदेशे वा स्वामी तं न विसंवदेत् ॥ 'quoted in स्मृतिच० III. p. 308. Vide Br. p. 298 vv. 7-8. This shows that Kāt. uses the very word निसृष्टार्थ used by बृहस्पति. As to 471 several points have to be noted. Ancient writers appear to have held that a father could even sell his son. The Nirukta (III. 4) refers to the view of some who relying on the story of Śunaḥśepa in the Aitareyabrāhmaṇa held that the father could gift, sell or abandon his son. The Vāsiṣṭhadharmasūtra (XV. 2) says that the parents have power to give, sell or abandon their son. Manu VIII. 416 and the Mahābhārata (Udyoga 33.64) say that all wealth acquired by the son, the wife and the slave belongs to him to whom they belong. The Mit. commenting on Yāj. II. 175 and the Vir. (p. 567) hold that a man has ownership over his wife and children. But it is refreshing to find that Kāt. holds the opposite view and that the V. M. (text p. 92) distinctly states that there is no ownership over the wife or children. Kauṭ. (III. 13 p. 181) notes that it is no crime for mlecchas to sell or hypothecate their children, but the Āryas cannot do so.

472. We must read ' daṇḍaśca '.

473. In claims containing various items, the creditor (or plaintiff) secures (a decree for) as much property as he establishes (to be his) by means of witnesses.

474. Where the defendant, after having totally denied (the whole claim in the reply), has to admit even a small part before (the court), he should be made to pay the whole. This is the view of Bṛbaspati.

475. In this way (the king), occupying the seat of justice, should decide the causes with the advice or help of brāhmaṇas in the presence of the litigants and not otherwise.

476. The king, after having himself looked into the judicial proceedings or after learning about them from the judge, should give a document of victory (to the successful party) for the purpose of information (to all).

(Rules about punishment)

477-478. The king should make a brāhmaṇa return (a debt due) to the creditor by conciliatory words, make others return a debt according to the usage of the country and should make bad people repay (their debt) by means of physical pain (i. e. imprisonment &c.). (The king) should make

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473. According to the Sm. C. this applies where the opponent is not shown to be very wicked, while according to the Mit. (on Yāj. II. 20) this applies to a case where a son when called upon to pay his father's debt replies shat he does not know or that he was not then present or born. Vide notes on 396 above.

474. If we read 'mithyālpamapi' etc., the meaning would be 'having denied everything in the reply of denial, if he admits even a little.' Compare Vi. VI. 22.

475. Compare Manu VIII. 1-2, Yāj. II. 1.

476. Vide vv. 259-265 above for paścātkāra and jayapatra. Compare Bṛ. p. 298 vv. 3-4. Vide Journal of Bihar and Orissa Research Society vol. VII p. 117 for a jayapatra dated 928 A. D.

477-478. Manu VIII. 49 says that a creditor was to recover his just debts in five ways, viz. dharma (conciliatory but truthful words), by vyavahāra (by suit), chala (trick viz. bringing ornaments etc. from debtor under the pretext of a festival), ācarita (fasting at his door) and by force (i. e. putting fetters on him). When a creditor employed these means to recover a debt that was admitted he was not to be found fault

a coparcener or friend (of the successful party) pay by means of a ruse and also traders, husbandmen, and artisans. This is what Bhṛgu declared.

479-480. On knowing (the debtor) to be unable to return the debt, (the king) should make him over (to the creditor) and make him work. If he be unable to work, he should be sent to jail except in the case of brāhmaṇas. He should make husbandmen, kṣatriyas, vaiśyas and śūdras repay (a debt) by making them work.

481. Punishment is not at all prescribed (by sacred

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with by the king (vide Yāj. II. 40, and Manu VIII. 50); but if the debtor denied the debt, the only remedy was a suit. Vide Bṛ. p. 330 vv. 55-58 for explanation of the words dharma, chala, ācarita and bala. *Sāntva* stands for the remedy *dharma*, sampīḍya for ācarita and bala.

479-480. Compare Manu VIII. 177 and IX. 229 and Yāj. II. 43 for making the debtor (who is not a brāhmaṇa) work. Punishment was either physical (from imprisonment to death) or monetary (vide Nār. p. 231 vv. 53-54). A brāhmaṇa was not to be subjected to corporal punishment, according to Manu VIII. 124 and Gautama XII. 43. The punishments for a brāhmaṇa were according to Gautama (XII. 44) preventing him from doing the same thing, depriving him of all wealth, taking sureties from him, proclaiming him as a thief in the town or city, banishing him, putting on him the marks indicating his guilt (vide Manu IX. 237). The Sm. C. (III. p. 292) relying on Manu IX. 236 and other dicta says that a brāhmaṇa could be imprisoned but he could not be subjected to any corporal punishment such as beating, cutting off the hand for theft etc. Manu VIII. 379 says that tonsuring the head of a brāhmaṇa for a crime is equal to the sentence of death. Āpastamba Dh. S. II. 10. 27. 16-17 lays down that a brāhmaṇa guilty of murder, theft, forcible seizure of another's land was to have his eyes covered over with cloth for his life (so that he could not see anything). Though the brāhmaṇa was free from corporal punishment, owing to the policy of the state in ancient India, he could be imprisoned, banished from the realm or could be deprived of the use of sight. Even in modern times state policy prevents the arrest or imprisonment of an agriculturist in the Bombay Presidency in execution of a decree for money; vide sec. 21 of the Deccan Agriculturists' Relief Act, XVII of 1879.

481. Manu VIII. 129 and Yāj. I. 367 say that punishment is fourfold, viz. saying 'fie on you', severe reproof or condemnation in words, fine, corporal punishment. Bṛ. p. 387 v. 7 lays down which of these four is appropriate to whom and p. 387 vv. 5-6 say that admonition (with the word 'fie') is appropriate to light offences,

texts) for the preceptor, the father, the mother, and also the relatives, when these are guilty of offences.

482. Where an offence was committed when life was in danger, there should be no punishment at all; this is the dharma (the rule of law) declared by Bhṛgu.

483. (The king) should not at all award death sentence to a brāhmaṇa even though he may be guilty of any offence whatever ; (the king) should banish him from the kingdom with all his wealth and without any bodily injury to him.

484. When (any person) from among the four varṇas does not undergo prāyaścitta (expiation for offences committed) the king should prescribe (for him) proper punishment consisting of fine or corporal injury.

485. If kṣatriyas or brāhmaṇas are guilty of an offence for which a śūdra is liable to be punished according to law, then they would be liable to double and double (of the punishment for the śūdra.)

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reproof to pūrvasāhasa, fine to middling sāhasas and imprisonment to treason &c. The verse of Kāt. is meant to forbid punishment by way of fine and corporal punishment only in the case of preceptors &c. Compare Śaṅkha 'अदण्ड्यौ मातापितरौ स्नातकपुरोहितौ परिव्राजकवानप्रस्थौ जन्मकर्मश्रुतिशीलशौचाचारवन्तश्च' (quoted in Sm. C. III. p. 296); and गौ. ध. सूत्र VIII. 12-13 'षड्भिः परिहार्यो राज्ञा ॥ अवध्यश्चाबन्ध्यश्चादण्ड्यश्चाबहिष्कार्यश्चापरिवाद्यश्चापरिहार्यश्चेति ॥'. Compare the principle underlying sec. 562 of the Cri. Pro. Code. Yāj. I. 358 says that a king has to punish his own son, or father-in law &c.

482. This enunciates the right of private defence of body. Compare sec. 97 and 99 of the Indian Penal Code.

483. Compare Gautama XII. 43 'न शारीरो ब्राह्मणदण्डः' and Manu IX. 241. Vide Bṛ. p. 388 v. 11.

484. The Par. M. explains that if the offending brāhmaṇa does not submit to being banished, then he has to be punished just as a kṣatriya would be, viz. with fine or imprisonment. Compare आप. ध. सू. II. 5. 10. 17-18 'स ब्राह्मणान्नियुञ्ज्यात् । बलविशेषेण वधदास्यवर्जं नियमैरुपशोषयेत् ॥;' also गौतम XII. 44.

485. The idea seems to be that a kṣatriya should be awarded double the punishment which a śūdra would be awarded for the same offence aud a brāhmaṇa four times as much.

486. The king should punish a śūdra, who forsakes the order of sannyāsins (after having entered it) and who intently practises *japa* (silent muttering of prayers) and *homa*, with death (or corporal punishment) or he should be punished with double the fine.

487. In the case of all offences, women should pay half of the fine in money which is prescribed for a male ; when (the punishment for an offence) is death in the case of males, (the punishment for women would be) cutting off a limb.

488. Women who are not independent should not be arrested ; it is the male (on whom they are dependent) who should be regarded as the offender (when they go wrong) ; they (the women) should be punished by their lord (i. e. the person on whom they depend), but the king should take away (for punishment) the male.

489. Even if a woman whose lord has gone on a journey be consigned to jail, she should be kept in confinement only till her lord returns.

490. Whatever fine is carefully prescribed for an offence (in the smṛti texts) it should be understood that it is to be in kārṣāpaṇas or their equivalent (to be paid) to the king.

491. Where fine of one fourth of māṣa or one half of a māṣa is prescribed (and then subsequently in the same context) there is no express mention of māṣa, in such cases one māṣa should be prescribed as the fine.

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486. It appears that we should read 'pravrajyāvasthitam' for '-sitam'. A śūdra was to be punished if he entered the fourth order (āśrama). This is the way in which the Vir. p. 724 understands this verse. Note the well-known story of Śambūka (Rāmāyaṇa, Uttarakāṇḍa 74–76).

491. This verse, as it stands, is not clear. The reading of Kullūka is clear and means that a māṣa must be held to be golden where the metal is not specified. Saras. p. 150 notices that according to Vijñāneśvara the fine of a thousand means a fne of copper paṇas while according to Bhāruci it means a fine of a thousand glden māṣas and that in this matter the usages of countries should be followed.

492. When the punishment (or fine) is declared to be in māṣas, there it should be understood that they are to be of silver and where it is declared in kṛṣṇalas, there also the same conclusion about the fines declared is to be understood.

493-494. A māsa is to be understood as the twentieth part of a kārṣāpaṇa; and a kākaṇī is equal to the fourth part of a māṣa and of a paṇa. In the land of the five rivers this (the following?) nomenclature is in current use. A kārṣāpaṇa is to be understood as Aṇḍikā, four kārṣāpaṇas as equal to one dhānaka, 12 dhānakas as equal to one suvarṇa which is also called dīnāra and citraka.

(*review of judgment*)

495. Where a certain matter (or side) is determined

492–493. According to Manu VIII. 132–134 and Yāj. I. 362–363 eight trasareṇus (motes in sun-beam) are equal to likṣā, 3 likṣās = one rājasarṣapa, 3 rājasarṣapas = one gaurasarṣapa, 6 guarasarṣapas = one middling yava, three yavas = one kṛṣṇala, five kṛṣṇalas = one māṣa, and 16 māṣas = one suvarṇa, four suvarṇas = one pala. According to Yāj, four or five suvarṇas make one pala, 4 karṣas are equal to one pala and copper equal to karṣa in weight is called paṇa or kārṣāpaṇa. A pala therefore was equal to 64 or 80 māṣas and if we take a pala as equal to 80 māṣas, then a karṣa, which was $\frac{1}{4}$ of a pala would be equal to 20 māṣas and this is what Kāt. says in the first half of 493. In the latter half of 493 Kāt. seems to follow another nomenclature. Haradatta on Gautama XII. 19 (पञ्च माषा गवि) quotes a verse of Uśanas 'माषो विंशतिभागस्तु ज्ञेयः कार्षापणस्य हि ॥ काकिणी तु चतुर्थांशो माषस्यैव प्रकीर्तितः ॥'. According to Bhāskarācārya's Līlāvatī (verse two) twenty varāṭakas are equal to one kākiṇī and 4 kākiṇīs equal to one paṇa.

494. The latter two halves are almost the same as Bṛ. p. 317 v. 15 and both 493 and 494 almost the same as Nārada (text appendix p. 229 verses 58–60). Dr. Pran Nath devotes one chapter (III) to these terms in his 'Economic Condition in anceint India' and traces dhānaka to the Persian 'Dānaq'.

495. The words 'tīrita' and 'anuśiṣṭa' occur in Manu IX 233, where it is laid down that what is tirita and anuśṣita should not be overturned by the king and reviewed, but should be upheld. Kāt. explains thesa words in his own way. Kullūka explains them

by the *sabhyas* themselves as true though it be really untrue, it is said to be *tīrita*; that matter is said to be *anus'iṣṭa* which is declared (as true) on the testimony of witnesses.

496. If a party be not satisfied with the decision (of his claim) even though given by the family and other tribunals, the king should reconsider that decision and should upset what was wrongly decided.

(Dicourse on interest in recovery of debts)

497. (A money-lender) should never hand over a loan to (dependent) women, to slaves, and to minors. The lender cannot recover back that wealth which he gives to these.

498. That rate of interest which the debtor promised in addition (to the rate allowed by s'āstra) and which was promised in times of difficulty must always be given, though it is of the kārita kind; but interest of the kārita kind incurred in other circumstances should never be paid.

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as ' decided according to the rules of s'āstra ' and ' taken so far as to recover the fine from the defeated party ' respectively. The verse of Manu, even as interpreted by Kullūka, forbids review of judgment on tha ground that a litigation was fought out by women &c. or forbids a review solely at the king's pleasure. But where the sabhyas are clearly wrong or where witnesses have borne false testimony a review was allowed. Nārada also uses the same words (Nār. p. 22 v. 65) and allowed a party to make an application for review if he agreed to pay double the fine. Vide Yāj. II. 306 and verses 294–295 above.

496. Vide Yāj. II. 305 for a similar provision. Verse 82 above sets out various grades of tribunals.

498. Interest is either kṛta (agreed upon between the debtor and creditor) and akṛita (not agreed). The first is of six kinds कायिका, कालिका, चक्रवृद्धि, कारिता, शिखावृद्धि and भोगलाभ. Vide Bṛ. p. 321 vv. 5–11. Yāj. II. 37 laid down that interest was to be 1/80th of the principal per month or 2, 3, 4 or 5 percent per month according to the order of castes. If more was promised by the debtor himself than this, he had to pay it. Vide Yāj. II. 38. Manu VIII. 153 mentions the first four out of the above six, and so does Nār. (p. 66 vv. 102–104). Gautama XII. 31–32 mentions six kinds (five being the same as above and the 6th being called आधिभोग). Kāt. refers to both bhogalābha and ādhibhoga.

499. Where the debtor has to pay interest to the very end and where he pays it every time (i. e. every day), that is declared to be śikhāvṛddhi (hair-interest).

500. That is declared to be bhogalābha (interest by enjoyment) when (the lender) derives pleasure from (a mortgaged) house (by residing in it) or the crop from (a mortgaged field).

501. Where the complete enjoyment of the thing pledged (or mortgaged) is agreed to be the interest, that transaction of money-lending so entered into is said to be *ādhibhoga.*

(Interest in transactions where there is no agreement as to interest)

502–504. When a person takes a loan (of money or an article) and goes to another country without returning it, that loan begins to acquire interest after a year (from the date of the loan). If a person after taking a loan (from a person) goes to another country without returning it even when pressed (by the lender to return it), that loan begins to acquire interest after three months (from demand). Where a borrower does not return (a loan) even though he be in the country and even when he is pressed (to return the loan), (the king) should make him pay interest from that day (i. e. the day of demand) though it was not agreed upon and though he be unwilling to pay interest.

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499. We must read ' चर्णिक: '. The verse as it stands makes no sense. Haradatta on Gautama XII. 32 and Saras. p. 223 add one verse from Kāt. which was omitted through oversight ' शिखेव वर्धते नित्यं शिरश्छेदान्निवर्तते ॥ मूले दत्ते तथैवैषा शिखावृद्धिस्ततः स्मृता ॥ (it constantly grows like the top knot on the head, it ceases by the head being cut off i. e. by the principal being paid, therefore this is called hair interest '. Vide Bṛ. p. 321 vv. 7–8.

500. This explains ādhibhoga in Gautama XII. 32.

502–504. Verse 502 applies where the lender makes no request for return, 503 where he makes a request for the return of the loan, 504 where a man is in the country and does not return the loan though pressed. Compare with 502, Vi. VI. 4. Verse 504 is referred to in *Saundanappa* v. *Shivbasawa* 31 Bom. 354 at pp. 361–362. Pāṇini (IV. 4. 21) derives 'yācitaka'.

505. What is lent through friendship (or affection) does not bear interest as long as it is not demanded back. If it be not returned even though it is demanded back, it bears interest at (the rate of) five per cent (per month).

506. A deposit, balance of interest, purchase and sale, these, if not paid when demand is made therefor, bear interest at five percent (per month).

507. When a man after purchasing some goods, goes to a different country without paying the price, the price begins to earn interest after three seasons (i. e. 6 months).

508. There is no interest at any time on hides (or armour), crops, wine, gambling debts, the price of commodities sold, the bride price of women and debts incurred as surety.

(*The rate of interest*)

509. Money lent at interest may always be recovered by the creditor up to double (of what was lent). If he cannot recover double (of what was lent), he should again add further interest.

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505. Compare Nār. p. 68 v. 108. 31 Bom. 354 at p. 361 refers to this verse and it is said (at p. 364) that it was an incident annexed to every contract of debt by the Hindu Law that interest though not stipulated for should run on it in the event of non-payment after demand from the date of such demand. Neither the interest Act XXXII of 1839 nor the Contract Act affects that rule of Hindu Law.

506. ' Purchase and sale '--if a chattel is purchased and the purchase money is not paid even though demanded, this verse applies and the interest runs from the date of demand.

507. The Vir. explains that this applies where there is no demand made for the money.

508. There can be no interest in these cases unless it is expressly stipulated for. As to prices of commodities there is no interest only when the purchaser does not leave the country and there is no demand. In the case of a deposit also, there is no interest as long as it is kept intact and is not demanded back. Compare Nār. p. 33 v. 36.

510–512. The interest stands at double in the case of jewels, pearls, corals, gold and silver, fruits, silken cloth, woolens. In the case of all oils, liquors and ghee, the (maximum recoverable with) interest should be known as eight-fold and also in the case of raw sugar and salt. (The maximum recoverable with interest) is fivefold in the case of all metals other than gold and silver and eight-fold in the case of land. As the text says ' at once ' it (the maximum) should be paid at once.

(Recovery of debts–the rule when there are several debts).

513. Where several debts are executed in writing on the same day (the king) should treat them all as equal, so far as the security, its protection and enjoyment are concerned; in other cases (i. e. where the debts are not of the same day) they should be paid in order (of dates).

510–512. Verse 510 says that the rule of *damdupat* applies in these cases. Read ' phala ' for ' phāla ' in 510. The sages are not agreed as to the rate of interest on various articles and so Nārada observes that there are several local usages (Nār. p. 67 v. 105). Compare Gautama XII. 28 and 33, Manu VIII. 151, Vas. II. 44-47, Yāj. II. 39, Vi. VI. 11–17 for varying rates. All are agreed as to gold or money that the interest recoverable at one time in a lump cannot exceed the principal, which is called the rule of *damdupat*. There are numerous cases explaining the limit of the rule of *damdupat*. Vide I. L. R. 1 Bom. 73 (damdupat not applicable to interest recoverable in execution of a decree), I.L.R. 3 Bom. 131 (rule applies only to Hindu debtors), I.L.R. 20 Bom. 721 F.B. (rule of damdupat does not apply to mortgages with possession where the terms agreed upon necessitate the existence of an account current), 1 Bom. L.R. 551 (p. 555 summarises three propositions), 35 Bom. 199 (the Transfer of Property Act does not take away the protection of the rule of damdupat), 21 Bom. L.R. 419 (this rule does not prevent an agreement between creditor and debtor to capitalise interest at a stage when the interest does not exceed the principal). Under the Deccan Agriculturists' Relief Act (XVII of 1879) the benefit of the rule of *damdupat* is given even to non-Hindu debtors who are agriculturists.

513. If all debts borrowed on same date can be recovered from the debtor, they should be treated equally, but if all cannot be fully recovered, then each should be recovered from the property of the debtor *pro rata.*

514. But when there are several debts, whatever is incurred first should be paid first, but a debt owed to a king (or kṣatriya) should be paid after one owed to a brāhmaṇa.

515. Where a creditor establishes that a particular article was manufactured (by the debtor) with the money (or materials) of the particular creditor, the debtor should give that money (recovered by sale of the article) to that creditor alone and not otherwise.

(*Pledge*)

516. That is said to be *bhogyādhi* (a pledge to be enjoyed) if (a debtor) having taken a loan, gives (to the creditor) something, whether moveable or immoveable, which is capable of being enjoyed, for the purpose of meeting the interest. (The debtor) after repaying the principal in addition (to the income enjoyed by the creditor) would get back his field and the like (that was hypothecated).

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514. Compare Yāj. II. 41. The general rule is that as regards debts the first in time prevails over the rest. But exceptions were recognised on the ground of the caste of the creditor. Vide Sec. 48 of the Transfer of Property Act and sec. 56 of Bombav Land Revenue Code (which makes state revenue a paramount charge.

515. This states an exception to the rule that among several debts the earlier in time prevails over later ones.

516. Nār. (p. 73 vv. 124-125) divides a pledge into two, viz, one that must be redeemed within a certain time (kṛtakālopaneya) and the other which is to be retained till discharge of debt and again divides a pledge into two varieties, *gopya* (to be retained only) and *bhogya* (to be enjoyed). Br. (p. 322 v. 17) also divides a pledge into moveable or immoveable, gopya or bhogya. The Saras. (p. 233) notes texts of Vyāsa and Bharadvāja and says that a *bhogyādhi* is of two kinds, *sapratyayabhogyādhi* (where the stipulation is that the profit from the thing pledged is to be applied towards payment of interest and reduction of the principal) and *apratyabhogyādhi* (i. e. where the stipulation is that the income is to be taken in lieu of interest only). Verse 516 speaks of apratyayabhogyādhi. Vide Mit. on Yāj. II. 64 for the same distinction between two varieties of bhogyādhi, though the technical terms are not used.

517. If (a debtor) were to pledge the same thing to two persons what would be the proper beginning or course of conduct (as to recovery of the debts) ? (The answer is) the prior one of the two (transactions of pledge) should be accepted (as enforceable) and the person who made the two pledges would be liable to the fine imposed on a thief.

518. When a mortgage, sale and gift are made by means of a document and by means of witnesses, the transaction effected by a document would be superior, being opposed to only one mode of proof (viz. oral evidence).

519. When there are two writings about the same transaction, one not specifying the thing and the other specifying the thing, Kātyāyana declared that the transaction in writing which gives particulars (of the thing pledged &c.) is superior (to the other).

520. That would be *anirdiṣta* (not specified or ascertained) where a man pledges a thing which did not at first (i. e.

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517. Vide Yāj. II. 23 for the proposition that in pledges, gifts and sales the prior transaction is preferred to a later one. Compare Vi. V, 181-182 (which prescribe drastic punishments for such mortages of land) and Bṛ. p. 326 v. 34.

518. This verse applies to a simple pledge or mortgage (gopyādhi) where there is no enjoyment. In such cases the transaction which is effected by writing is superior to one effected in the presence of witnesses only. But if a transaction be effected before witnesses and is accompanied with possession, then there being two modes of proof in its favour (oral evidence and possession) that transaction would be superior to one effected by writing but without possession. Vide Vi. V. 184. Compare sec. 48 of the Indian Registration Act which confers priority on registered documents against oral agreements unless the latter are accompanied or followed by delivery of possession. Verses 517-518 show that hypothecation without delivery of possession was known to Kāt.

519. This applies where there are two documents of pledge or other transaction concerning the same thing. The next verse explains what is meant by nirdṣṭa and anidirdiṣṭa.

520. We have to take 'yo vidyamānam' as equal to 'yaḥ, avidyamānam; 'resembled the sky'-this means that it was vague or intangi-

at the time of the pledge) exist and the exact description of which could not (therefore) be specified and which (hence) resembled the sky. That should ba indicated as *nirdiṣṭa* (specified in detail) which exists at the time (of the pledge &c.) as (exclusively) his (of the pledgor's &c.).

521. Where a person having first declared (pledge) of all his property afterwards effects a pledge by specifically naming (the thing pledged), how cannot the transaction marked (by specifying the name) be more powerful (than the one which is effected in general terms.) ?

522. When the field or house is marked out by boundaries and the village and other (details) are written (in the document of pledge), then it becomes perfect (or valid).

523. If any thing that is pledged is destroyed through the power of fate or the king, in such a case the debtor should be made to pay to the creditor the debt together with the interest.

524. (If the thing pledged) were to fall (i.e. deteriorate) or were to be destroyed without any fault of the creditor (the pledgee), the debtor should be made to give another thing (of equal value) as a pledge and he could not be free from the debt.

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able like the sky, not being in existence at the time of the pledge or sale and not being described as to its details. What is in existence at the time of pledge and its nature can be specified is nirdiṣṭa. Compare sections 79, 82 of the Indian Contract Act as to contract for the sale of goods that are not ascertained at the time of the contract.

521. This applies to a case where though the thing exists at the time of both transactions, the first is a general pledge of all that belongs to a man and the second is that of a specific thing.

522. It is better to read गृहं for ग्रामं with the सरस्वतीविलास. Compare sections 21 and 22 of the Indian Registration Act.

523. ' Power of fate ' such as fire, flood &c; ' power of king ' where the king or his officers forcibly seize the thing pledged without any fault of the pledgee. Vide Yāj. II. 59, Bṛ. p. 323 v. 21 and Gautama XII. 39 for similar propositions. Compare sec. 152 of the Indian Contract Act.

524. ' Nipatated ' would also mean ' were to be lost ' and ' mriyeta ' would mean 'were to die' (with reference to cattle or other animals that were pledged). Compare Yāj. II. 60.

525. (The creditor or pledgee) who would make the pledge work unwillingly and without the consent (of the pledgor) should be made to pay the (price of the) fruits of labour (to the pledgor) or he would not get his interest.

526. He (the pledgee) who harasses and rebukes the pledge while working (for him) with words, punishment or movements, would have to undergo the first amercement.

527. Where (the pledgee) forcibly and against the will of the pledgor adds to the pledge what is not pledged, he (the pledgee) would be liable to the first amercement and the pledgor would get back his pledge.

528. When a creditor enjoys a pledge from his debtor under a vitiated doument, there the king should make (the creditor) pay a fine and should destroy the deed of pledge.

529. Where the pledgor does not exist (i. e. is dead or unheard of), the creditor should proclaim the pledge (to the king). Then the pledge being proclaimed to the king should be sold by him ; this is the fixed rule. The creditor after receiving his money together with interest should hand over the rest (of the proceeds of sale} to the king.

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525. This refers to female slaves pledged. Compare Manu VIII 144 and 150, Kaut. (tr. p. 227, text p. 179 'अनिसृष्टोपभोक्ता मूल्यशुद्धमाजीवं बन्धं च दद्यात्)', Yāj. II. 59.

526. This suggests that when the slave refused to work the pledgee would not be liable to fine, if he rebuked the slave pledged.

527. The Saras. explains that this verse applies to *gopyādhi*.

529. The Par. M., Saras. and Vir. explain that this verse applies where the debtor leaves no relatives. If there are relatives it is proper that they should get the balance of the sale proceeds. Compare Bṛ. p. 325 vv. 29-30. Vide sec. 176 of the Indian Contract Act.

(*Rules about sureties*)

530. One should cause a surety to be given for repayment (of debt), for appearance, in litigation, for honesty, for (taking) oaths. In this way in other cases (surety should be given) according to circumstances.

531. If the surety for the appearance (of a person) cannot produce him at the time and place (agreed upon), he should in that case pay the debt due to the creditor (lit. what he has bound himself) except where (the debtor is prevented from appearing) by act of God or the king.

532. Three fortnights at the most should be allowed for finding out the absconding (person--debtor); if he (the surety) can produce him (in that time) the surety would be free (from liability).

533. When the time (given for producing the absconding person) has expired if the surety cannot produce the

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530. Suretyship was known from ancient times. Pāṇini (II. 3, 39) knew it and Gautama (XII. 38) speaks of *prātibhāvya* (suretyship debt). Manu (8-160) speaks of surety for appearance and for repayment of debt. Nār. p. 70 v. 118 speaks of three kinds of sureties. Yāj. (II. 53) speaks of three kinds of sureties, viz. for appearance, honesty and repayment (the same verse is Viṣṇu VI. 41) and in II. 10 refers to a fourth kind viz surety in litigation (i. e, one who will carry out the decretal order passed against a party). When oaths or ordeals were to be undergone at a distant date, surety was taken from the party. Bṛ. (p. 327 vv. 39-40) speaks of four (*dars'ana*, *pratyaya*, *dāna* and *ṛṇidravyārpaṇa*). The distinction between the last two is that the *dānapratibhū* undertakes to repay the debt with interest from his own pocket, while the last undertakes to make available to the creditor the property (house, furniture &c,) of the debtor. Hārīta speaks of five, the fifth being surety for keeping the peace (*abhaya*). The Sm. C. explains that the surety in case of a gopyādhi was called 'ādhipāla' and in case of 'bhogyādhi' was called 'bhuñjāpaka' and that both were included herein.

532. Vide Bṛ. p. 327 v. 42 who says that in accordance with the distance of the country (where the debtor is supposed to be in hiding) a fortnight, a month or a month and half should be given. Kāt. mentions only the maximum period that should be allowed.

person, he (the surety) should be made to pay what is due (from the debtor) and the same rule is laid down in case of the death (of the debtor).

534. Where a person becomes a surety for the appearance of a man after receiving a pledge from him, the son of the surety should be made to pay the money from that pledge in the absence of the father (i. e. in case of his death or his having gone abroad).

535. When a man stands surety for the appearance of another, he should pay from his own wealth the debt to the creditor, if he does not produce the debtor (at the proper time and place).

536. The first two (viz. surety for appearance and honesty) should be made to pay the money that may be declared to be due at the time (when the debtor should have paid) in case of failure (in appearance or honesty on the part of the debtor), but the latter two and in their absence their sons also (are

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534. The Mit. on Yāj. II. 34. explains that this applies to the surety for honesty also. In *Narayan* v. *Venkatacharya* 6 Bom. L. R. 434 it is said that under the Mit. a grandson is not bound to pay the suretyship debt of his grandfather unless the latter received some consideration for it. In I. L.R.10 Patna p 94 it was held that if the father stood surety for honesty, the son was not bound to pay that debt. Vide also 4 Pat. L. J. 309.

535. This is Manu VIII, 158.

536. This is the same as Bṛ. p. 327 v. 41. This verse obviously refers to the four kinds of sureties mentioned by Bṛhaspati. Vide note on 530. The latter two '—mean the surety for dāna (repayment of debt) and for ṛṇidravyārpaṇa (delivery of the goods of the debtor to the creditor). The son of the surety for appearance and honesty is not liable to pay his father's suretyship debt, but the sons of the other two kinds of sureties are liable to pay (but not the grandson). In *Tukarambhat* v. *Gangaram* I. L. R. 23 Bom. 454 at p. 459 the texts of Yāj., Bṛ. and Kāt. are examined and it is held that ancestral property in the hands of sons is liable for the suretyship debts of the father when the father was a surety for payment of money or for delivery of goods ; vide I.L.R. 28 Mad. 377 (suretyship debt of father for payment held binding on ancestral property in the hands of sons, but not where he was surety for keeping the peace) ; 39 Cal. 843

liable to pay) if the debtor fails in his promise.

537. When (several sureties) have incurred joint and several liability, the son should pay the whole debt if the father has gone abroad, but if the father be dead, then the son need pay only the share for which his father would have been liable and not the debt claimable from others (the co-sureties). This is what Bṛhaspati says.

538. Whoever out of several (sureties) that have incurred joint and several liability is found present at the place (of the agreement) should be made to pay (the whole debt) ; if (a surety) be gone abroad, then his son should be made to pay the whole, but if (a surety) be dead, then the son should be made to pay only the share of his father.

539. If one who having stood surety gives back the debt as a surety being harassed (by the creditor), he is en-

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(where it was held that suretyship debt of the dāna type must be paid by son though no actual loan had been advanced to the principal); 26 All 611. Vide notes on vv. 555-556 and 561.

537. Yāj. II. 55. says that if there are several sureties they should pay the creditor according to their shares. But if their liability is joint and several, then the creditor may proceed at his will against any one for the whole. Vide Nār. p. 71 v. 120. This verse says that when there is joint and several liability, the son of a surety who has gone abroad may have to pay the whole debt if the creditor demands it from him, but if the father be dead, then the son has to pay what would fall to his father's, share (if the debt were distributed among all the sureties). ' Ekacchāyāśrita ' is a technical expression and is explained by the Mit. as ' ekasya adhamarṇasya chāyā sādṛśyam tām-āśritaḥ' i. e. those who agree to hold the same position as the principal debtor (who has to pay the whole debt if demanded). The Mit. and Sm. C. say that when the son pays the whole debt due from his deceased father as surety, he need not pay interest while the Vir. holds the opposite view.

538. The Vir. notices that Kāt, as read by Sm. C. was what is verse 537. This verse is practically the same as 537 and the two are probably two versions of the same verse of Kāt,

539. Vide Bṛ. p, 328 v. 44 for the same verse. This applies only if the surety pays under pressure from the creditor. If he pays out of greed for demanding double of what he has to pay, he would not be entitled to double, nor would he be entitled to double if the original debtor compensates

titled to receive (from the original debtor) twice the amount (paid to the creditor) after the lapse of three fortnights.

540. Whatever is rightly paid for another person by one (the surety) to whom a demand is addressed (by the creditor) and (whose liability) is proved by witnesses, the surety is entitled to get that (from the original debtor).

541. When there is a failure (to perform a contract) even though an earnest had been given by one party, then (the king) should make the other party (who is in default) pay double (of earnest). The purpose of taking an earnest is to make the party suffer the loss of it when he does not abide (by his agreement).

(*Who should pay the debt contracted by the father and others ?*)

542–543. A debt incurred by (the head of the family) when unable to maintain the family or when suffering from a disease and for the purpose of (meeting) a calamity, which (debt) is known as ' āpatkṛta ' (incurred in distress), debt incurred for (expenses) of a daughter's marriage and what is incurred

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the surety within three fortnights. Vide Yāj. II. 56 and Nār. p. 71 v. 121, both of whom do not expressly impose the condition of the lapse of three fortnights. Compare sec. 145 of the Indian Contract Act.

541, This verse is rather obscure. Pāṇini (VI. 3.70 ' Kāre satyāgadasya ') notices the word 'satyaṁkāra' which is explained by the commentators as 'śapathakaraṇam.' Yāj. (II.61) has the half verse 'Satyṁkārakṛtaṁ dravyaṁ dviguṇaṁ pratipādayet, which is explained in two ways by the Mit. One meaning is that if one mortgages or pledges with the express stipulation that when the principal rises to double, he would pay double the money, but would not lose the property mortgaged or pledged, then the creditor is only entitled to double the principal, but not to the property. Another meaning is that when A gives some article such as a ring to B by way of earnest in a contract of sale &c. (here ' satyaṁkāra ' means ' a thing or money given by way of earnest '), if the contract goes off through the default of A who gives the earnest, he loses the earnest, but if the contract goes off through the default of B to whom the earnest is given, the defaulter has to pay double the earnest or double the price thereof.

542–543. Manu VIII. 166 and Yāj. II. 45 restrict the liability of the family to debts incurred for the purposes of the family. Compare Viṣṇu VI, 34. Nār. p. 45. v. 13.

for (meeting) funeral expenses-all these debts incurred by the head of the family must be paid by the family.

544. That the father need not pay the debt incurred by the son is the rule of law, but (the father) must pay that debt (of his son) which he promised (to pay) or which was (incurred by the son) with his consent.

545. A debt incurred for the (purposes of the) family by the slaves, the wife, the mother, the pupil or the son (of the head of the family) even without his consent when he is gone abroad should be paid (by the head of the family). This is (the view of) Bhṛgu.

546. A woman should pay a debt incurred by her along with her husband, or son or incurred by herself alone, but need not pay debts incurred by them otherwise.

547. A wife who was addressed by her husband when about to die 'you should pay my debts' should be made to pay even though she does not accept (or consent to the direction) if she has wealth in her possession.

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544. Here as the Sm. C. says the words 'putra' and 'pitā' stand for 'any member of the family' and for 'head or manager of the family' (father, grand-father, eldest brother, uncle &c). The debt referred to in this verse is one not incurred for the purposes of the family, but is an individual debt and 'dharmataḥ' implies that the father may through affection pay his son's individual debt but is not bound to do so.

545. Compare Manu 8.166, Yāj. II. 45, Nār. p. 45 v. 12 and Bṛ. p. 329 v. 50. This verse is quoted in *Virasvami* v. *Appasvami* 1 Mad. H. C. R. p. 375, 379 *n* (when a husband married a second wife and the first wife left him, it was held that the first wife had no implied authority to borrow money for her support).

546. Compare Nār. p. 46 v. 16. Sm. C. explains that if she has not joined them in debt, she need not pay even on their death. Compare Yāj. II. 46 and 49. In *Narotam* v. *Nanka* I. L. R. 6 Bom. 473 it was held that a married woman who contracted a debt jointly with her husband was liable to the extent of her *strīdhana* only and not personally. Vide I.L.R.1 Bom. 121, 124 where this verse is cited. The Mit. on Yāj. II.49 says that the purpose of the last clause is to indicate that a woman need not pay a debt incurred by her husband for liquor or in gambling even if she joins with him in incurring it or accepts liability for it.

548. A debt incurred by the father, if he is afflicted with disease or has gone abroad, shall be paid by the sons after the twentieth year, even when the father is living.

549. (The king) should make the sons pay such debts (of their fathers) even though they be living, if they are afflicted with disease, are mad or old or have gone on a long journey.

550. Sons must pay the debt of their father when it is proved (by evidence) even when the father is near (or living), if the father is blind from birth, a *patita* (guilty of grave sins), mad or suffering from tuberculosis, leprosy (and other incurable diseases).

551. Since fathers are released from wretched indebtedness by sons when born on account of the latter's paying off (the debt), therefore fathers desire (to have) sons.

552. (A son need) never pay (the debt of his father) when the father is dead, if he (the son) has not attained

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548. The Sm.C. explains that the son had to pay his father's debt when twenty years elapsed after his going abroad. Compare Viṣṇu VI. 27 and Nār. p. 46 v. 14. Vide I. L. R. 41 Mad. 136 at p. 149 and I. L. R. 42 Mad. 711 (F. B.) at p. 730 where this verse of Kāt. is referred to. Viṣṇu makes it clear that the son had to pay his father's debt when the latter became a *sannyāsin.*

549. According to the V. R. p. 51, v. 549 is an exception to v. 548. It says that if the father's disease be incurable or if it is certain that the father would not return from his journey then the son was not to be allowed to wait twenty years, but was bound to pay at once.

551. Compare Nār. p. 42 v. 5. Vide verse 591 below for the result of non-payment of debt. It is therefore that debt is said in this verse to be 'adhama' (that is, what reduces a man to a low state). 'When born '—it is not meant that a son the moment he is born is called upon to pay off his father's debt; that liability is incurred by him only when he has reached the age of discretion. Even the Taittirīya Saṁhitā (III. 3. 8 1-2) refers to 'kusīdam-apratīttam' (debt unpaid) and expresses an ardent desire to be free from it.

552. A person was a minor till the age of 16; vide Nār. p. 51 v. 35 and Kauṭilya (text p. 154 and tr. p. 196) 'women when twelve

years of discretion. But when the proper time (to pay the debt) comes, he must pay according to the law, otherwise his forefathers may remain in hell.

553. If (a son) has not reached (years of) discretion, he, though independent, is not liable for the debt (of the father). (Real) independence is understood to belong to one who is senior and seniority is due to the (attainment of) certain qualities and age.

554. That debt of the grand-father which is seen (or ascertained) to be due or a part of which remains to be paid must be paid (by the grandson), but a debt which is tainted or which was repudiated by the father need never be paid (by the son &c.).

555. That debt which descended hereditarily from the grandfather, which was ascertained by the father (i. e. the son of the grandfather) as due, which is free from taint and which was not repaid by the sons (of the grandfather) should be paid by the grandsons. (This is the view of) Bhṛgu.

556. When the debt of the grandfather is not repaid by his sons because they were afflicted with disease, such a debt of the grandfather should be paid by the grandson, but only the principal (should be paid).

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years old attain majority and men when sixteen ' (द्वादशवर्षा स्त्री प्राप्तव्यवहारा भवति षोडशवर्षः पुमान्).

553. ' Independent ' because of the death of the father. This is the same as Nār. p. 50 v. 31.

554. 'Tainted'-a debt is tainted when it is was incurred for liquor, lust, gambling, when it is a fine or a toll &c. Vide Gautama XII. 38, Manu VIII. 159, Vas. 16. 31, Kauṭ. p. 189, Yāj. II. 47 and Mit. thereon for an enumeration of debts declared to be so tainted that the son need not pay them.

556. ' Such a debt ' means a debt not tainted as laid down in the texts cited in the note to v. 554. Vide notes on 560-561. Compare Bṛ. p. 328, v. 49.

557. (The king) should make the son pay (the debt of his father), if he (the son) be free from diseases, capable of taking the estate (of his father) and is able to shoulder the debt; but (he) should not make the son pay otherwise.

558. What is owed by the father must always be paid to the creditor in his absence by the sons or grandsons from his property.

559. While the father's debt remains (unpaid) the son shall not take the wealth (of the father); that wealth should be made over to the creditor; when (the father) is dead and the son takes the wealth (without paying the debt) he should be made to pay (by the king).

560. In the absence (i.e. death) of the son, the grandson should sedulously pay the debt; the fourth (in descent) should not pay (the debt of the ancestor); it (the liability to pay the debt of the ancestor) ceases in his case.

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557. 'Capable of taking' i. e. not liable to be excluded from inheritance for causes mentioned in Manu IX. 201 and Yāj. II. 140; 'able to shoulder'--of age and able to pay back the debt.

558. 'In his absence'—on his death &c.

560. Compare Nār. p. 42 v. 4. Dr. Jolly has a long note on this passage and on p. 44 he makes this remark: 'The doctrine viz. that the liability to pay debts contracted by an ancestor extends to the great-grand-son is opposed to the teaching of such an eminent authority as Vijñāneśvara, who maintains in the Mitākṣarā that the great-grand-son is not liable for debts contracted by his great-grand-father and conversely, that he does not inhert his property.' He makes similar remarks in his Tagore Law Lectures (on Partition &c. 1885) p. 171 'but in the law of debt also, the liability to pay debts contracted by an ancestor stops with the grandson. There is every reason to suppose that in the law of inheritance also, the exclusion of the great-grandson from the narrower community of heirs by Vijñāneśvara and Viśveśvara is intentional and not accidental'. The learned author has here fallen into a double error. The Mit. has nowhere said that the *great-grand-son* is excluded from inheritance. The Smṛti texts on the payment of debts by descendants present an apparent conflict. For example, vv. 555 and 558 (as also Yāj. II.

50) make no distinction between sons and grandsons as to liability, but v. 556 and Bṛ. p. 328 v. 49 say that the son must pay the debt with interst, while the grandson need pay only the principal. The first canon of interpretation is that a conflict between texts is to be avoided and they are to be construed as one coherent whole (this is called the ' ekavākyatānyāya; vide Jaimini II. 1). This can be accomplished by assigning to each text its appropriate sphere (i. e. by following the principle of viṣaya-vyavasthā). Therefore an examination of the several texts and the propositions deducible therefrom must be undertaken here. The first proposition is that the debt of a man must be paid by his three descendants (son, grandson and great-grandson) if they have ancestral estate in their hands. This follows from the rule of Yāj. II. 51 that whoever takes the *riktha* (ancestral estate) has to pay the debt and from the verses of Kātyāyana (855–856) that three descendants of a man form a coparcenery. The Mit. on Yāj. II. 51 distinctly says that ' the great-grandson and the like of him who is without son or grandson should be made to pay the debt if they take the *riktha* (ancestral estate) but not otherwise' (पुत्रहीनस्य रिक्थिन इत्येतदपि पुत्रपौत्रहीनस्य प्रपौत्रादयो यदि रिक्थं गृह्णन्ति तदा ऋणं दाप्याः नान्यथेत्येवमर्थम् ॥ मिता.). Dr. Jolly somehow failed to notice this remark in the Mit. and made the wrong assertion quoted above. This proposition is followed by modern decisions in British India. Vide. 19 All. 26 (F. B.) and 4 Patna 478 where grandson taking assets was held liable to pay grandfather's debt with interest; while 53 I. A. p. 204= 48 All. 518 (P. C.) which is the latest case on the point decides that the great-grandson (who has taken assets) is liable to pay the debt of the great-grandfather with interest just as a son is liable. This rule is embodied in vv. 555, 558. But if sons and other descendants took no ancestral estate, it was felt even in ancient India that it was a great hardship that all three descendants should be made to pay the debt of the ancestor with interest. Therefore the second proposi tion that was enunciated by ancient and medieval Hindu lawyers was that even when no ancestral assets were taken, the son should pay his father's debt with interest, the grandson should pay his grandfather's dabt but without interest and the great-grand-son was not liable to pay even the principal. This proposition is embodied in Bṛ. (p. 328 v. 49) and in Kāt. v. 556. The Mit. on Yāj. II. 50 quotes the verse of Bṛ. and remarks 'अत्र च पुत्रपौत्रैर्ऋणं देयमित्यविशेषेणोक्तं तथापि पुत्रेण यथा पिता सवृद्धिकं ददाति तथैव ऋणं देयम् । पौत्रेण तु समं मूलमेव दातव्यं न वृद्धिरिति विशेषोवगन्तव्यः । ऋणमात्मीय........मदेयं तत्सुतस्य त्विति बृहस्पति-

वचनात् । तत्सुतस्य प्रपौत्रस्याग्रहीतधनस्य । '. Dr. Jolly probably relies on this passage of the Mit. but he failed to grasp the implication of the word 'agṛhītadhanasya' (if he has not taken ancestral wealth). In *Narsimharav* v. *Krishnarav* 2 Bom. H.C.R. p. 64 it was held (probably following Bṛhaspati p. 328 v. 49) that the grandson was liable to pay the debt of his grandfather without interest independently of assets. In order to remove the great hardship on heirs (taking no ancestral estate) caused by this decision Bombay Act VII of 1866 (the Hindu Heirs Relief Act) was passed whereby it is provided that a son or grandson is not liable to be sued for the debts of his deceased ancestor merely by reason of the being such son or grandson and that the son or grandson or other heir of the deceased shall be liable only to the extent of the assets that come to his hands. Judicial decisions have laid down that the same is the law in other parts of British India. In I. L. R. 19 All. p. 26 at p. 29 both verses of Kāt. about the grandson's liability (to pay with interest and also without interest) are referred to and in I. L. R. 4 Patna 478 at p. 482 the judges express their inability to understand what Bṛhaspati meant when he declared that the grandson should pay grandfather's debt without interest and follow Yāj. and Viṣṇu and refuse to follow Bṛhaspati. The Vīramitrodaya (p. 34) very tersely but clearly puts forward the two propositions ' पुत्रेण रिक्थग्रहणाग्रहणयोः सवृद्धिकमेव देयम् । पुत्राभावे पौत्रेण रिक्थग्रहणे सोदयं देयम् । अग्रहणे मूलमेव । प्रपौत्रेण तु रिक्थाग्रहणे मूलमपि न देयम् ॥. A third proposition (which is an exception to the first two) is that even a son is not liable to pay the debts of his father incurred for liquor, gambling, or arising from lust, suretyship or a fine or toll or a promise made without consideration or whatever debt is not ' vyāvahārika ' (vide Gaut. XII. 38, Manu VIII. 159, Vas. XVI. 31, Kauṭ. p. 189 and Uśanas as quoted in Mit. on Yāj. II. 47). Other writers restricted the non-liability of the son for suretyship debts to cases where the father stood surety for appearance or honesty. Vide notes on vv. 536 and 534 above. In *Brij Narain Rai* v. *Mangla Prasad* L. R. 51 I. A. 129 (= 46 All. 95) the Privy Council laid down five propositions as to the liability for debts contracted by managers and fathers of joint Hindu families viz, (1) The manager of joint undivided estate cannot alienate or burden it except for purposes of necessity; (2) if the manager be the father and the other members be his sons, he may, so long as it is not for an immoral purpose, lay the estate open to be taken in execution upon a decree

561. The debt (of the grandfather) arising from suretyship need never be paid by the grandson ; even the son

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for the payment of his personal debt ; (3) if the father purports to burden the estate by a mortgage, it would not bind the estate unless it is made for discharging *an antecedent debt* ; (4) 'antecedent' means 'antecedent in fact as well as in time' i. e. it must be truly independent of and not part of the transaction impeached by the son ; (5) this result is not affected by the question whether the father is alive or dead. It will be observed that the Privy Council makes (in propositions 2 and 3) a distinction between a pure money debt of the father and a debt of the father secured by a mortgage. The ancient Hindu Law books afford no warrant for this distinction. Further the Privy Council in *Suraj Bunsi Koeo* v. *Sheo Proshad* 6 I. A. 88 at p. 106 (= I. L. R. 5 Cal. 148, 171) for the first time used the words 'antecedent debt' when saying that the whole ancestral estate including the son's interest would be liable 'where the conveyance was executed by the father in consideration of an antecedent debt or in order to raise money to pay off an antecedent debt'. Those words for which there is nothing corresponding in the ancient texts became the subject of elaborate arguments and decisions throughout India as if they were the dicta of the ancient sages themselves. According to the Privy Council (vide proposition 5) the son's liability to pay his father's debts is as absolute during the father's lifetime as after his death. This goes far beyond the spirit of ancient Hindu Law which made the son liable after the father's death or during his life only if he had gone abroad for many years or was afflicted with incurable disease or was extremely old (vide vv. 548–550).

If verse 560 means the same thing as Nār. p. 42 v. 4 and Br. p. 328 v. 49, then the meaning is that the great-grandson need not pay even the principal, if he has taken no ancestral estate. Here if the father be A, the son B, the grandson C, and the great-grandson D, then A, B, and C are the three persons liable for A's debts (though C is liable only for the principal if he has taken no estate) and the fourth D (counting from A, the first person liable) is not liable. It is in this way that Kāt. vv. 555, 558 on the one hand and 556 and 560 on the other are to be taken as referring to different sets of circumstances (viz, taking the ancestral estate in the first two and not taking it in the last two).

need pay only the principal (of the suretyship) debt of his father.

562. The debt must be paid by him who takes the estate; if there be none such, then by him who takes the wife; in the absence of such a person (taking the wife) by the sons and then by others in order (of heirship) who take the estate.

563. As long as the son does not get his father's wealth when it exists, so long he, though well-off, should not be made to pay as a debtor (the debt of his father).

562–563. Compare Gautama XII. 37, Yāj. II. 51, Nār p. 48 v. 23 and Bṛ. p. 329 v. 52. Vide verse 577 below. Vide my notes to V. M. pp. 340–345 for detailed explanation of Yāj. II. 51 which is practically the same as this verse. This verse settles the order of persons liable to pay the debts of a deceased person. First comes he who takes his wealth (this may include a son or grandson or great-grandson who takes the estate). If the deceased left no estate then he who took his widow had to pay the debts of the deceased. This does not mean that widow remarriage was approved of by the sages. Manu (V. 162) rather condemns it. But remarriages took place by custom and sometimes a widow may be kept by a man as a mistress. In such a case the second husband or lover was liable to pay the debts of the first husband. That this was apprehended to be the law even in modern times is clear from the fact that section, 4 of the Hindu Heirs Relief Act (Bombay Act VII of 1866) expressly provides ' no person who has married a Hindu widow shall. merely by reason of such marriage, be liable for any of the debts of any prior deceased husband of such widow '. If there were no estate and also no widow, the son was liable to pay the debts (even though he took no estate). A man might die leaving an estate and a son who was incompetent to inherit owing to some physical or mental defect. In such a case a distant relative might take the estate (and not the son) and that relative would be liable to pay the debts (and not the disqualified son). Verse 563 makes it clear that even if a disqualified son has ample self-acquired property he would not be liable to pay his father's debts if the father died leaving an estate which never came to the son, but was taken by somebody else.

564. What was promised whether in writing or without writing must be paid, but (what was promised) to the wife of another should be known as a debt due to lust.

565. Where (the father) after having caused through anger (physical) injury to another or having destroyed the latter's wealth, promises something that pacifies him (the person wronged), that is declared to be a debt incurred through (the influence of) anger.

566. If a gift was promised by a man for a religious purpose whether when in good health or when afflicted with disease, the son should be made to pay it, if the father (the promisor) dies without (actually) giving it over ; there is no doubt on this.

567. (The debt contracted by) liquor-sellers and the like, who have no wealth and no issue, shall be paid by him who enjoys their wives.

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564. Yāj. II. 47 says that a son was not bound to pay the debt incurred for lust by the father. Kāt. here explains what is meant by ' kāmakṛta ' (incurred for lust).

565. Among the debts which the son was not liable to pay Bṛhaspati (Br. p. 328. v. 51) included promises made under the influence of love or wrath ; Kāt. here explains the latter.

566. Read ' śrāvitam ' for ' bhāvitam '. Vide verse 642 also. The only cases where an incomplete gift not actually made but remaining only in promise was enforced by the courts in ancient India are those in vv. 566 and 642. This verse contains the germs of the idea of a will, since the mere declaration of the intention of a man to give for religious purposes is here made enforceable after his death. Aparārka p. 782 says that the word ' son ' is only illustrative and every heir taking the estate of the promisor would be liable to make good the promise to make a religious gift. In modern times a mere gift for *dharma* without specifying any particular object is declared to be void for uncertainty. Vide 6 Bom. 24, 14 Bom. 482, 17 Bom. 351, 18 Bom. 136, 23 Bom. 725, 735 (P. C.=26 I. A. 71). But this is opposed, as pointed out in 30 Mad. 34, to the spirit of ancient Hindu Law. Vide Manu IV. 227 for dharma meaning इष्ट and पूर्त gifts.

567. Mandlik translates (tr. of Mayūkha p. 114) ' Śauṇḍika ' as ' drunkard ' but this is wrong, since it means ' one who distils or sells liquor or wine '.

568. The debts contracted by the wives of liquor-distillers, hunters, washermen, herdsmen, and sailors shall be paid by their husbands (lit. protectors), since they are incurred by them for the purposes of their husbands.

569–570. The debts contracted by wives shall in no way involve (bind) the husbands, except when they are contracted in distress (of the family). For the manifold activities of human beings are (made) for the sake of the family. But the wives of washermen, hunters, herdsmen, distillers of liquors (are exempt from this rule). The income of the husbands (in the case of these women) depends on them (their wives) and the family also is maintained by them.

571. If a woman possessed of considerable (strīdhana) wealth repairs to another man against the wishes of her son, the son should take away from her the (strīdhana) wealth in the absence of daughters (i. e. if there are no daughters).

572. One should bring into the world (i. e. produce) progeny for the purpose of (paying off) debts and not merely for the sake of (sensual) pleasure. Therefore the parents should not be made to pay (the debts of their progeny) when contracted for an improper purpose.

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568. The V. R. (p. 50) reads 'nāpita' (barber) for 'nāvika' and ascribes the verse to Bṛhaspati (vide Bṛ. p. 329 v. 53). Read 'rajaka' for 'janaka'. Compare Yāj. II. 48, Nār. p.47 v. 19 and Viṣṇu VI. 37. V. R. and Vir. explain that the verse is not restricted to women of these castes only, but applies to women of all castes like oil-pressers where the livelihood of the husband depends upon the labours of their wives. This verse is not meant to apply only to debts incurred by such women for purposes of the family but to all debts incurred by them.

569–570. It is probable that these verses are not Kātyāyana's, but Nārada's. Verse 570 contains the same principle that is embodied in v. 568. These are the same as Nār. p. 47 vv. 18–19.

572. 'Tantu' means 'apatya' (progeny).

573. If a woman who has a son forsakes her son, though quite able (to bear the burden of the family), then depriving her of her strīdhana wealth, the son should pay off his father's debt (with it). (This is the view of) Manu.

574. If a woman possessed of considerable wealth has a minor son and she repairs to another husband, then the person to whom she resorts should pay the debt (of her husband). This is declared to be the rule about a woman having a minor son.

575. (The debts) of those who have gone on a distant journey, who are without relatives, who are idiots or mad, who are afflicted (with incurable diseases) and who wear peculiar sect marks (like the Bauddha ascetics) should be paid by those who have taken their wives and wealth, even when they (the former) are living.

576. Where the son (of a man) is overwhelmed by calamities or where he is found to be a minor, then (the man's debt) should be paid by him who takes the wealth; in the absence of such a person, he who takes the wife (of the deceased debtor) should be made to pay the debt.

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573. If the woman forsakes her son and repairs to another (blinded by love), the son should deprive her of her strīdhana and should pay off his father's debt. 'Though quite able'—The same result follows if the son be not able (i. e. if he be a minor etc,)

574. Compare Nār, p. 47 v. 21. If we read 'trātāram' for 'bhartāram' as Sm. C. and Saras. do, then the meaning is: if a woman having a minor son and much wealth resorts to another man as a protector (such as her brother or maternal uncle), then the latter should pay (i. e. make her pay) the debt of the husband.

575. For 'lingi' vide v. 349 above.

576. This applies where, though the son is capable of succeeding, he is a minor or is suffering from diseases; then in such a case the man who keeps his father's wealth with him (such as an uncle) should pay the debt of his father. This verse only says that such a son is not under a liability to pay and does not lay down the order in which persons are liable to pay debts.

577. The taker of (a man's) wealth shall first pay (his debts); after him the son (should be made to pay); when there is no son or when the son is extremely poor, the taker of the wife (shall pay the debt).

578. The husband should pay a debt contracted by his wife and the son should pay a debt contracted by his mother, if it is contracted for the sake of the husband (by the wife or the mother) when he (the husband or the son) goes abroad after telling her.

579. (A father) must pay that debt contracted by his son which was approved of (after it was incurred) or which was not dissented from when it was incurred and when the father heard of it and which was incurred at the order (or pressure) of the father.

(Discourse on the recovery of debts from the debtor by means of imprisonment and the like).

580. The debtor may be held in restraint (by the creditor) openly before an assembly of people according to the

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577. Vide v. 562 above. Compare Nār, p. 48 v. 23. There is an apparent conflict between this verse and v. 562 (and Yāj. II. 47). But there is really no conflict. This verse applies to a particular case. First the taker of assets should pay a man's debts; if there are no assets then the son who is much more wealthy than the taker of the wife (of the deceased) should then pay the debt, if the son is not wealthy and no assets are left then the taker of the wife should pay; when there are no assets, nor taker of the wife, then even an indigent son should pay.

578. It is better to read 'bhaktasyārthe' for 'bharturarthe'; the meaning is that when a wife or mother is compelled to incur a debt for the bare maintenance of herself because the husband or son went to a distant country, the husband or son was liable to pay it. 'After telling her'—the same result would follow if he went away without telling her where he was going. If we read 'avidhāya' it would mean 'without providing for her maintenance.'

579. Vide 544 above. Compare Nār. p. 45 v. 11.

580. Vide vv. 585-586. There are five modes of recovering a debt, viz. *dharma*, *vyavahāra*, *chala*, *ācarita* and *bala*. Vide notes on v. 477. These five modes are mentioned by Manu VIII. 49 Nār. p. 71 v. 122, Viṣṇu VI. 18, Bṛ. p. 329 v. 54. Bṛ. (p. 330 vv. 55-58) defines four of these (except vyavahāra). Even Āpastamba (1. 6, 19. 1.) refers to the mode of sitting at the door of the debtor (what is called '*dharṇa*') or the 'ācarita' of Manu. Verse 477 refers to

custom of the country, so long as he does not pay what he owes.

581. Where the man held restrained has an inclination for making water or voiding fæces, he should be followed behind (by the creditor) or he should be allowed (to go alone for that purpose) in fetters.

582. He (the debtor), if a surety be furnished, should be released every day at the time of taking meals and at night, while the surety remains in custody.

583-584. That debtor who cannot secure a surety for appearance or who will not accept (the proposal to be let off on furnishing) surety (though one is available) should be confined in jail or should be placed in the presence of guards. A respectable man, who is trustworthy and pure (in conduct), should not be confined in jail. He should be let off without a surety or after being bound by an oath.

585. The creditor should recover (the debt) from his debtor when he is first shown to be so by imprisoning him or by putting pressure on him (by fasting at his door), by making him work for him, by judicial proceedings and by moral persuasion.

'deśācāra' (custom of the country). The Sm. C. explains that this verse exemplifies ' deśācāra ' and that the creditor may himself restrain the debtor (in one country) or employ a person for hire (according to the custom of another country). V. R. says that this is an illustration of the 'vyavahāra' mode of recovering a debt.

581. The Sm. C. says that fetters are to be put on a very bad debtor only. The V. M. reads ' nibandhaṁ vā ' and explains that ' he should be allowed to go on furnishing a surety for appearance.'

582. The last quarter may also mean as Sm. C. and Vir. say 'the surety having undertaken to prevent him from absconding'.

584. ' Anibaddhaḥ ' may mean ' without fetters ' (vide v. 581 above) or ' without guards ' (as the Sm. C. and Vir. explain).

585. ' Pīḍana ' stands for ' bandhana or the mode of bala, ' ' uparodha ' for ' ācarita '. If we read ' vibhāvitam ', it would mean ' a debt that is shown to have been incurred'. Compare Manu VIII. 50, Yāj. II. 40 and Nār. p. 72 v. 123.

586. In the same way (a creditor) may recover his money by a pretext or by ' ācarita ' (the customary mode of sitting at the door or fasting &c.). He should make kṣatriya, vaiśya and śūdra debtors of the same caste as his own or of a lower caste (than his own) pay off (the debt) by working for him.

587–588. (These are practically the same as 477-478).

589. Where a creditor harasses a debtor who claims investigation in a court he would lose his claim and would incur a fine equal (to the claim).

590. If (the creditor) were to make the debtor do for him dirty work which was not at first indicated (to the debtor when he was called upon to work), the creditor would have to undergo the first amercement and the debtor would be released from the debt.

591. He who having taken a debt or the like does not pay it back to the creditor (or owner) is born in the (latter's) house as a slave or a servant (for wages), a wife, or a beast.

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586. Vide v. 480 for a similar verse. Compare Manu VIII. 177, Yāj. II. 43 and Bṛ. p. 330 v. 59 who further provide that a debtor of a higher caste than the creditor should not be made to work for the creditor, but should be made to pay by instalments according to his ability.

587–588. Verse 477 read राजा तु स्वामिने and here the reading is ' राजानं स्वामिनं विप्रं ' which would mean ' he (the king) should make a kṣatriya or a brāhmaṇa debtor pay to the creditor &c.

589. ' Harasses '—this refers to ' bala ' and the other coercive measures (except *vyavahāra*) to which a creditor was allowed to resort if the whole claim of the creditor was admitted. ' Nyāyavādī ' literally means 'one who says that he would pay what would be found by the judge to be justly due '. Where there was a dispute about the amount of the debt due, the creditor's only remedy was a law-suit. Compare Bṛ. p. 331 vv. 63–65.

590. Compare vv. 479 and 586, which lay down that a debt may be liquidated by doing work for the creditor.

591. ' Debt and the like '—The same holds good in the case of an article borrowed or a deposit. Vide v. 551 and compare Nār. p. 44. v. 8.

(*Deposit*)

592. An article that is sold (but is still in the hands of the vendor), what is deposited with a man when one is going on a distant journey, a pledge, bailment to one for delivery to another, a loan (of ornaments etc. for temporary use), what is handed over to a man as a trader (for sale as an agent)— all these are declared to be *upanidhi*.

593. Whatever is deposited with a person should be preserved by him with efforts; the loss of the article arising otherwise than by Fate (act of God) or the king is proclaimed as due to him (to his neglect).

594. He, by whose fault anything (that is deposited with him) is destroyed or lost, should be made to pay the thing together with interest, except in the case of fate or king (act of God or king).

595. If the thing bailed is lost even by act of Fate or

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592. The words upanidhi, nyāsa and nikṣepa are very similar in meaning but they were differentiated by writers on law. 'Nikṣepa' is a deposit entrusted to a man in his presence after counting before him the coins &c.; 'upanidhi' is the deposit of articles enclosed in a sealed box or envelope (the articles not being counted in the presence of the depositee); a 'nyāsa' is a deposit not made in the presence of the depositee, but handed over to persons in his house for being given into his custody. These three words, particularly 'nyāsa and 'nikṣepa' are often used as synonyms. Vide Vir. p. 361 (for all the three) and Mit. on Yāj. II. 67 for nyāsa and nikṣeka. Yāj. II. 65 defines upanidhi as defined by the Mit. Nār. p. 120 v. 1 defines nikṣeka and p. 121 v. 5 defines 'upanidhi'. Bṛ. p. 332 vv. 2-3 define nyāsa (as including both nyāsa and nikṣepa) and upanidhi. Manu VIII. 185 employs the terms nikṣepa and upanidhi. Kauṭ. p. 177 has a chapter on 'upanidhi' and extends the rules about it to nikṣepa. Kāt. makes 'upanidhi' a generic term for all bailments. For the definition of 'anvāhita' or 'anvâdhi' vide v. 611. Where A makes a deposit with B and B hands it over to C for being delivered to A, this is 'anvāhita'. Kāt. means that all the rules about the preservation and return of these various kinds of bailments are the same. Vide Yāj. II. 67, Nār, p. 123 v. 14, Bṛ. p. 334 v. 15.

594. Compare Gautama XII. 39, Nār. p. 122 v. 9, Bṛ. p. 333 vv. 10-11. 'Fault' means 'negligence' &c. Compare sections 151-152 of the Indian Contract Act (of 1872) for similar provisions as to the care required of the bailee.

595. Compare Nār. p. 111 v. 7 which prescribes unishment f r

king after it is demanded back, the bailee should be made to pay the price of it only (to the bailor); there is no doubt about this.

596–597. Whoever uses up (lit. eats up) the property of another which was with him as a nyāsa (deposit) or the like, or who takes no care about it or who allows it to be destroyed through ignorance shall be made to return it (or its price). What he used up he should be made to return with interest, he should be made to pay the equivalent (only, without interest) of what he neglected, he should be made to pay a little less (than the price of) of what he allowed to be destroyed through ignorance.

598. Where a thing deposited is destroyed even without the act of Fate or king together with the goods of the bailee, the loss is declared to be that of the depositor.

599. Where the depositor, even after knowing the (probable) loss of an article, deposits it, there the bailee is no made to pay even if the deposit is lost for any cause whatever.

600. Whatever is lost through the fault of the bailee, that loss falls on the bailee; when it is lost or stolen the bailee must offer (to the bailor) the price (of it).

601. The deposit (upanidhi) should be taken back (by the depositor) at the proper time ; (the bailee) should avoid (returning it) at an improper time. If he returns at an

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not returning a deposit after demand. Manu VIII. 191 and Yāj. II. 66 do the same. Compare section 161 of the Indian Contract Act.

596-97. Compare Yāj. II. 67, Nār. p. 122. v. 8 and Bṛ. p. 333 v. 11 and sec. 154 of the Indian Contract Act. The Mit. on Yāj. II. 67 says that ' a little less than ' means ' minus one fourth of the price '.

598. Compare Nār. p. 122 v. 9, Yāj. II. 66, Manu VIII. 189 and Bṛ. p. 333 v. 10.

599. Where the depositor knows that if he deposits an article with A, it is likely to be lost through the act of God or King and yet deposits it with A, the latter is not liable for loss even if it occurred for any cause other than act of God or king.

600. The latter half occurs in Par. M. III. p. 290 with the reading ' mṛte ' and ' āvahet '.

601. ' Proper time ' i. e. at the time when the cause of fear on account of which the deposit was made ceases to exist; 'improper time–' if the bailee returns before the cause for fear &c. has ceased or before

improper time, he (the bailee) should be made to pay fine double (of the value of the thing).

602. These rules are declared to apply to all kinds of upanidhis.

603 If an artisan retains an article delivered beyond the definite number of days during which it was (agreed) to be worked up, he should be made to pay (its price) even if it was lost through Fate.

604. The artisan shall not be made to pay (the price) if the article (delivered for being worked up) were to be lost through defects in the article itself. If what is delivered for being worked up is destroyed through the fault of the artisan, he should be made to pay (the price).

605. If an article is destroyed after it is worked up a little only, then the loss (of the wages for that much work) falls on the artisan employed, but when an artisan desires to deliver an article (to the owner) after it is finished, the loss belongs to the (owner) who did not take it, if it be destroyed

606. If (the loan of an article) were taken for a particular purpose or for a definite period of time and a demand

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the bailor demands it. Bṛ. p. 333 v. 8 says a deposit should be returned when it is at least once asked for.

602. Compare Yāj. II 67, Nār. p. 123 v. 14, Bṛ. p, 334 v. 15.

603. Compare sec. 161 of the Indian Contract Act.

604. If old worn clothes were handed over to a washerman and they were torn in the process of washing because they were worn out, the washerman was not liable.

605. If yarn is given to a weaver and he has only woven the border of the cloth, then if he has to weave it again, he has to do so without demanding additional wages. Similarly after the border woven is destroyed and the owner does not furnish additional yarn the wages already paid to the weaver belong to him and the owner cannot demand the wages back.

606. The V. M. takes this verse to refer to an article entrusted to an artisan, while, the Sm. C. and Vir. say that it refers to a '*yācitaka*'. In the middle ' before the purpose is fulfilled or the time fixed expires. The person has to return it after the time fixed

were made in the middle and the article is not returned (on demand), the person (taking the loan) would not be made to pay the price with interest.

607. If a person (who has taken an article on loan) does not return it even when requested (to do so) after the fixed period is reached or the purpose (of the loan) is carried out, the borrower should offer the price (to the owner) if the article were destroyed or stolen.

608. If (the borrower or bailee) does not return (the thing borrowed or bailed) even though a demand is made, he should be made to return it with interest.

609. If the owner himself (of the article borrowed as a loan) were (likely) to sustain loss (if the article were not returned when demanded by him), then the borrower should be made to deliver it back even though the time fixed (for the loan) had not expired or even when the purpose (for which the loan was taken) was half accomplished.

610. He, who having taken the loan of an article does not deliver it even on demand, should be restrained and forcibly made to return it and fined if he does not return.

611. That is declared to be (a bailment) called *anvādhi* which is delivered to another with the words, ' you

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or the purpose is served and has not to pay interest simply because he did not return on demand, and if he does not return it then and the thing is lost he has to pay only the price. This verse is an exception to the rule in v. 608 Compare sec. 159-160 of the Indian Contract Act-

608. This states the general rule to which v. 606 is an exception and v. 607 is another.

609. Compare the more stringent provision in favour of lenders contained in sec. 159 of the Contract Act.

610. The lender had not to resort to the several means of persuasion &c. as in the case of a debt ; he could at once resort to 'bala' mode and if the borrower did not deliver even then, the king would fine him.

611. Vide note on v. 592 for an example of *anvādhi* or anvāhita

should hand over (to the owner) in my name in due course of business. '

(Sale by one who is not the owner).

612. A sale, gift or pledge made without ownership should be rescinded.

613. The claimant should first establish the thing (claimed) as his own property by (the evidence of) his kinsmen; afterwards the buyer should establish in order to clear himself his purchase (as honest and bonafide) by (the testimony of) his kinsmen.

614. The owner of the lost article should proceed to establish his ownership of the article by (the testimony of) his kinsmen ; and if he proves that it was not donated, abandoned or sold by him, then he gets it back.

615. (The purchaser) should establish that his purchase was overt or he should produce (before the court) the original (seller). Time for producing the seller should be given (to him) according to the number of yojanas (the seller was away).

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and Mit. on Yāj II. 67. V. R. notices that Halāyudha read ' atra mārgeṇa '.

612. The word ' asvāmi ' is separate, is an adverb and is to be construed with the rescission of all three kinds of transactions. Compare Manu VIII. 199.

613. This verse applies to a case where A claims that he is the owner of a thing which be had lost and which he finds in the hands of B who claims to be a bonafide purchaser from C. Here A must prove his ownership of the thing. When he leads such evidence then the purchaser is called upon to prove that his purchase from C was bonafide;' 'by kinsmen'— this is only illustrative and implies all means of proof.

615. The purchaser can escape fine by showing that he made the purches in the markate overt or by producing the vendor.

616. (The purchaser) should establish his purchase to be overt by (the testimony of) his own kinsmen who are respectable. In this case no other means of proof, whether divine or human, is declared (to be proper).

617. Where the party (the purchaser) after putting forward (the name of) the vendor again relies on overt purchase, he must produce the seller and no purpose is served by (the plea of) overt purchase.

618. If the seller cannot be produced (before the court), (the purchaser) should clear his purchase (as overt). When he has justified his purchase (as overt and so legal) he should not be blamed at all by the king.

619. (A purchaser) who does not produce the seller or who does not establish the purchase (as overt) should be made to pay to the owner the price (of the article) as claimed (in the plaint.) and a fine (to the king).

620. If the claimant of an article (alleged to be) lost does not establish that as his by the (the testimony of) his kinsmen he deserves to be punished like a thief in order to

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616. 'No other means &c.'—provided such kinsmen are available'; but if such kinsmen are not available, then other modes of proof were allowed.

617. This applies to a case where the purchaser at first says he would produce the seller and then tries to prove overt purchase. He becomes a hīnavādī because he changes his case and so he is made to stick to what he first put forward as his justification.

618-619. Compare Yāj. II. 170, Bṛ. p. 335 v. 4, Nār. p. 145 vv. 2 and 4.

620. 'Prasaṅga' is explained as 'atiprasaṅga' by the Sm. C. Claimants must be deterred from advancing false claims and hence severe punishment is prescribed. Compare Bṛ. p. 335 v. 5. The purport of all these rules is: If A sells to B an article and C comes forward as the real owner and complains that A had no ownership, C had first to prove his ownership. If he failed in this he was fined (verse 620). If he proved his ownership, then the purchaser B had either to prove a sale in market overt or produce the seller; if he produced the seller then he had to give up the thing to the rightful owner and claim his money from the seller. If he could

prevent the (taking of) undue advantage.

621-623. Where a purchase has been made in the midst of a row of traders to the knowledge of the king's officers, but it is made from one whose habitation is not known or where the vendor is dead (after the purchase), the real owner (of the thing thus sold by one not owner) will recover his own chattel after paying half the price (to the purchaser) ; in such a case both (the real owner and the purchaser) lose a half on account of the rule of law (in such matters). Purchase from a man who was unknown (or whose habitation was unknown) is a fault and so also is being careless about preserving one's goods; both these are declared by the wise to cause loss of property.

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not produce the seller owing to distance, he had to prove overt purchase; if he did so, he would be free from blame, but he would have to deliver the article to the owner. If the purchaser could not prove even overt sale, then he had to deliver the article to the owner and to pay a fine to the king and he lost his money also. Vide Kauṭ. p. 189 (text) for very similar provisions.

621-623. 'In the midst of a row of traders'.—This means that the purchase was not made in secret. 'To the knowledge of &c.'—This means that the purchase was in an open market held under the supervision of state officials; even when a purchase was made in the open market and it was proved that the article belonged to another (and not to the vendor), the purchaser, if unable to produce the the vendor because his address was not known or because he was dead (after the sale), had to give up to the real owner the article on receiving half of the price. Both were equally guilty; the purchaser purchased from one whose habitation was not known and the owner was not vigilant enough to keep his property. The law aids the vigilant and not the negligent. These verses lay down the doctrine of '*caveat emptor*'. These rules show that in order to be a a valid and legal sale every sale had to be in open market on a market day and at a proper hour. Vide Yāj. II. 168, Nār. p. 145 vv. 2-3. These three verses are Bṛ. pp, 335-336 vv. 7-9.

(*Partnership*)

624. When several persons, either traders or artisans, join together or when unseparated brothers (work together or put ancestral funds together), the profit obtained by these is to be enjoyed in equal shares when they separate.

625. They must each of them pay without fail in accordance with the agreement (made by them) for merchandise (bought for being sold), food charges, other charges (like tolls), losses (due to bad debts), freight and supervision of valuable property.

626. Of those who jointly deal in (or lend for profit) gold, grain or liquids and the like, the gain shall be the same as their shares (in the joint funds) whether equal, more or less.

627. If one out of many partners, being approved (i.e. authorised) by all, alone gives property or contracts a debt, it will be deemed to be done by all.

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624. This title is so called because there is something undertaken (*samutthāna* = undertaking) by several persons joining together (*sambhūya* = having joined together). In the dharmasūtras there is hardly any treatment of this topic. It was therefore one of the titles of law that was developed last. In the Aitareyabrāhmaṇa (IX. 1) there is a reference to the fact that in the booty obtained in a battle the warrior was entitled to $\frac{3}{4}$ ths and the charioteer was given $\frac{1}{4}$ only. Vide Yāj. II. 259 and Nār. p. 124, v. 1 (for definition) and Bṛ. p. 340 v. 27 for the meaning of 'śilpin' as one who works in gold, silver-thread, wood, stone, leather &c.

625. This is the same as Nār. p. 124 v. 4.

626. This is Bṛ. p. 337 v. 4. Vide Bṛ. p. 336. v. 3, which says that the expenses, the labour and the profit of each partner shall be according to the original share of funds contributed by him.

627. 'Gives property' i. e. enters into sale transactions on behalf of the partnership. Most digests read 'karaṇam kārayet' (he passes a document), which is a good reading and was probably changed into 'ṛṇaṁ ca,' as 'karaṇa' in the sense of document was not quite well-known. Compare section 251 of the Indian Contract Act (of 1872). This is the same as Bṛ. p. 337 v. 5.

628. A debt should be given to agnates, other relatives and friends only after taking a pledge from them (as security) and to others (a debt should be advanced) after taking a surety and under a document and before witnesses.

629. Gold may be advanced at one's will, but grain and liquids should be advanced for a period (definitely fixed at the time of advance). One should lend and recover according to the custom of the country.

630. What was given (or lent) by several (partners) jointly must be recovered by them in the same way (i. e. jointly); any one alone (from among them) should not demand it (from the borrower) ; if he does so he loses the gain (or the interest).

631. He who saves from thieves, or from water or from fire any chattel should be given a tenth part of it; this is the rule in all disputes.

632. If artisans (of four grades of skill) viz. apprentices, more advanced students, experts (in that craft) and teachers (are employed together in one undertaking), they

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628. This verse lays down that a partner, when lending out partnership money to his relatives and friends, should show more care by demandiug a pledge or mortgage than when dealing with other people.

629. 'At one's will'.—A partner may fix a period for repayment of money or gold or may not fix it at the time of making the advance. Compare Bṛ. p. 337 v. 18.

630. This is same as Bṛ. p. 339 v. 19.

631. Compare Nār. p. 125 v. 6, Yāj. II. 260, and Bṛ. p. 338 v. 10. That partner who saves partnership assets by his own single-handed efforts from loss due to some calamity gets $\frac{1}{10}$ of the price as his special reward; 'in all disputes'—this rule applies even to property not belonging to partnerships.

632. Vide Manu VIII. 210 and Mit. on Yāj. II. 265 for an unequal distribution of the one hundred cows offered as 'dakṣiṇā' u the jyotiṣṭoma sacrifice among four principal priests and the three

shall receive one after another in order one, two, three and four shares (of the profit of that undertaking).

633--635. That booty which is brought by a pillaging party at the command of their king from an enemy country should be divided by them according to the (settled) rule (on this point) after setting aside a tenth part for their king. The head of the pillagers should get four shares from that (booty); the specially intrepid (among the pillagers) should get three shares, the capable (fighters of the party) two each, and the rest should each get one share. If any one from among them while they are scattered about for pillage is caught, then they should contribute according to their shares towards the payment of the ransom (that the person caught) had to pay for securing his own release.

636. This very rule has been declared by the good in the case of dancers ; one who keeps the time takes a half share, the singers take equal shares, the principals (in the troupe of dancers or musicians) are entitled to two shares each ; this is (the rule) as regards those who undertake (any work) jointly.

637. This is the rule of decision as regards all, who engage in a joint undertaking without previously defining their shares such as merchants, husbandmen, robbera or artisans.

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assistants of each of of them. Vide my notes to V. M. p. 365 for complete explanation. The Pūrvamīmāṁsā had a special discussion on this topic (Jaimini X. 3. 53--55).

633-634. Compare Br̥. p. 341 vv. 31--32. Br̥. says that the king of the free-booters should get a sixth part of the booty (instead of $\frac{1}{10}$ as Kāt. does). The Sm. C. explains that Br̥haspati's verse applies to a very powerful enemy, while Kāt. refers to a weaker one ; while the V. R. explains that $\frac{1}{6}$ or $\frac{1}{10}$ depends upon the proximity or otherwise of the country.

636. Br. p. 341 v. 30 has the first two halves and reads ' adhyardham ' (a share and half).

(*Non-rendition or Resumption of Gift*)

638–639 Wives and sons, if unwilling, should not be made the subjects of sale or gift; wives, sons and one's entire wealth could be employed by a man himself (for any purpose of his own); but in times if adversity one may sell or gift away (even one's wives and sons), but he should not proceed to do so otherwise (i. e. in the absence of adversity). This is the definite conclusion of the S'āstras.

640. Whatever belongs to oneself which is over and above of what is required for maintaining one's family may be the subject of gift, except one's house or one's entire wealth; what is other than this cannot be given away.

641. The same as 471 above.

642. He, who having voluntarily promised a gift to a brāhmaṇa does not deliver it, should be made to pay it as a debt and should be awarded the lowest amercement.

643. A man is born for hundreds of crores of *kalpas* in the form of lower animals if he does not deliver what he has promised or if he takes back what is donated.

638-639. Verse 638 refers to cases where there is no adversity. These verses are in conflict with 471 above. The Sm. C. and Par. M. explain 471 by saying that it applies where a man has an only son, while these apply where a man has several sons. Vide note on 471 above. Nār. p. 128 v. 4 and Bṛ. p. 342 v. 2 and Yāj. II. 175 declare that son and wife cannot be given away, but the Sm. C. explains these also in the same way. Compare Kauṭ. p. 189 (text).

640. Compare Nār. p. 128 v. 6 and Bṛ. p. 342 vv. 3--4. Sm. C explains that this verse of Kāt. applies only where there is a single house and that if there are more houses than one acquired in one of the seven modes of lawful acquisition (as laid dowu in Manu X. 115) a gift could be made of one of them.

642. Note v. 566 above. Gautama V. 21 made an exception that if a gift be promised to one (even a brāhmaṇa) who does not follow the rules of life as required by religious texts, it should not be delivered.

643. For the duration of *kalpa* vide note on v. 10.

644--645. Where a reward is indicated (i. e. promised) for finding out what is unknown, that is declared to be wagest when it (the gift promised) is obtained by the finding ou, (of the thing unknown). That is known as a gift obtained through gratitude when it is obtained in the following manner viz. (in return) for protection from danger, for guarding (the property of a minor &c.) and for effecting some desired object (such as marriage).

646. 'To him who will rescue me who am in danger of life from this state, I shall give my entire wealth',—even when this (promise) is uttered, it cannot be so.

647. What is promised through lust or wrath or by those who are dependent (like servants or slaves), by those distressed, by those who are cowards (or are frightened), by lunatics and by those who are infatuated, or through misapprehension or joke, may be taken back (or withdrawn).

644–645. Nār. p. 129 v. 8 and Bṛ. p. 343 v. 8 speak of seven and eight kinds of valid gifts respectively, two of which are 'bhṛtiḥ'' and 'pratyupakārataḥ'. Kāt. in these two verses explains those words. 'Bhṛti' seems to mean a reward promised for finding out a lost article or an unknown offender &c.

646. If a man promises to give all his wealth for being freed from a dangerous situation, the man who saves him from that situation cannot get his whole wealth. ' It cannot be so '— It would not be the property of the man who saves, it cannot be a valid gift.

647. ' Misapprehension '— ' vyatyāsa ' is so translated. It means, as V. R. explains, ' to give to A when B wes meant to be the donee, or to give an article X when Y was intended to be given.' The general rule as stated by Yāj. II. 176 is ' what is promised must be given and what is given should not be taken back '. This and the following verses give the kinds of promises that need not be kept and gifts that are invalid. Compare Gautama V. 22, Nār. p. 130 vv. 9--10, Bṛ. p. 343 vv. 9--10. As regards gifts by ' ārta' distressed) there was a special rule in favour of their validity as embodied in v. 566 above.

648--649. What is promised as a bribe (to a man) for accomplishing a certain object need never be given, even though that object be accomplished. But if it (the bribe) be already paid, it should be forcibly returned (to the promisor) and a fine eleven times (as much as the bribe should be levied); this is what the followers of Garga and Manu say.

650--651. That is said to be 'utkoca' (a bribe) which is obtained by these, viz. by giving information about a thief, about a felon, about one who breaks the rules of decent conduct, about an adulterer, by pointing out those who are of bad character or by spreading false reports about a person. In these cases the person offering the bribe is not to be fined, but the intermediary deserves blame.

652--653. If a man who is appointed to (do) certain duties (by the king) obtains a bribe, he should be made to return the whole of the money (given as bribe) and to pay a fine eleven times as much (to the king). If a person who is not appointed to do a certain duty obtains a gratification which is in the nature of return (or reward) out of gratitude for (a kind) deed, he incurs no blame.

654. Same as 566.

648-649. 'Utkocā' (or utkoca in the masculine) is defined in vv. 650--651. 'Eleven times'.—Eleven times the bribe was the fine to be paid to the king by the person accepting the bribe. These two verses are quoted in *Shri Sitaram* v. *Shri Harihar* I. L. R. 35 Bom. 169. at p. 180 where it was held that if an adoption was induced by a bribe given to a widow, the bribe was an illegal payment and cannot support a sale or gift.

650-651. 'Giving...... a thief'— by suppressing information about a person who is really a thief or threatening an innocent person that he would be reported a thief; 'asatyapravartanāt' may also mean 'by offer to procure false witnesses.' 'The intermediary'—The person who approaches both the giver and the taker of the bribe was fined and so was the receiver of the bribe fined. But the person who offered the bribe was let off, in contrast to the modern provisions of the Indian Penal Code in sec. 161 and the following sections read with sec. 109.

655. What is mortgaged or sold through deceit or what is gifted or accepted through deceit or wherever (the king or judge) sees fraud, all such transactions he should annul.

(*Non-payment of wages*)

656. When no wages are settled the trader, the cowherd the husbandman should get a tenth part respectively of the profit, of the milk and of the crops.

657. He who having begun a work does not finish it at all should be forced (by the king) to finish it; he deserves to be fined if he does not do it.

658–659. A palanquin-bearer causing an obstacle at the time of starting should be made to pay double the wages (settled). (A servant) should not be made to pay when a thing (entrusted to him) is plundered by thieves or is burnt or carried away by a flood.

660. (The master) who abandons on the road (while on a journey) his servant when he is tired or afflicted with disease should be fined the first amercement if he does not wait for three days in the (neighbouring) village (to look after his servant).

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656. This verse should have been placed under 'non-payment of wages'. The trader who sold as an agent a thing for the owner should get a tenth part of the profit made in the sale by the owner, the cowherd employed to look after the cattle and to milk them is to get a tenth of the milk, and the field-labourer 1/10 of the crops (land, seed and implements being furnished by the owner). Compare Yāj. II. 194 and Nār. p. 139 v. 3.

657. The Sm. C. says, following a verse of Vṛddha-Manu that the fine would be two hundred kārṣāpaṇas. Compare Āp. Dh. S. II, 11. 28. 2–3 which provides for a field-labourer or cowherd giving up his work.

658–659. 'Palanquin-bearer'–This is only illustrative and includes every one (like an armed escort). 'Obstacle' simply means 'refusing to start' at the time settled. Compare Nār. p. 148 v. 8 and Yāj. II. 197.

661. When the goods (or merchandise) are attached or carried away on the road, (the servant) should get as much wages as are proportionate to the distance already traversed.

662. He who having hired elephants, horses, bullocks, asses, camels and the like does not return them though his work is finished shall be made to return them together with the hire (until the date of return).

663. He who having taken on hire a house, a water (tank), market or the like, does not return it to the owner (even when his work is done) should be made to pay the hire (till the date of return).

(*Dispute between master and herdsman*)

664. When (cattle) enter into fields, parks, reserved pastures, houses and cowsheds, they should be seized or beaten. This is the view of Bṛhaspati.

665. In the case of beating of the beasts of the lowest, middle and highest class, if their owner raises a dispute (the king or judge) should there prescribe the fine.

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661. 'Attached'— by the king's officers (such as toll-gate keepers); 'carried away' by robbers &c. This applies to a case where a lump sum is fixed as the wages for carrying certain merchandise for a certain distance.

663. 'Water'— means 'a water vessel' according to the Sm. C. and Vir; V. R. seems to take it as referring to water tank dug by the owner.

664. Compare Āp. Dh. S. II. 11. 28. 5–6. The Sm. C. says that the calves should be seized and the big bullocks should be beaten.

665. 'Raises a dispute'.—If the owner of the trespassing beasts pleads that the beating was more severe than necessary or allowed by the śāstras and proves his contention, the owner of the field trespassed upon was fined according to his fault.

666. Before the crops have grown, (the owner) should construct a high paling (surrounding them). Animals (or deer) when they have once tasted the sweet (crops) can be warded off only with great difficulty.

667. He (the king) should make the (owner of a trespassing) cow pay a fine of a fourth paṇa, (the owner of) a she-buffalo two quarters of a paṇa; so also the fine in the case of goats, sheep and calves is declared to be a fourth (of a paṇa).

(*Violation of compacts*)

668–669. Members of groups while strictly adhering to their individual duties (as laid down in the śāstras) should perform all their actions according to the conventional rules of their various groups. If royal edicts (or commands) that are issued are not in conflict with one's duty (as laid down in śruti and smṛti), one should by the king's order first perform those acts only.

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666. Compare Manu VIII. 239, Nār. p. 164 vv. 40–41. This verse applies to a field which is near a forest, while Nār. p. 164 v. 41 applies to a field which is near a public road.

667. ' Paṇa ' here means ' kārṣāpaṇa '. In the various smṛtis various fines are enumerated which apply to various sets of circumstances. Vide Gautama XII. 19–23, Nār. p. 161 v. 31, Yāj. II. 159–160, Manu VIII. 241.

668–669. Compare Yāj. II. 186, Bṛ. p. 347 v. 5, Nār. p. 153, v. 2. The Mit. mentions among compacts made by groups in a village the rules about pastures, about the distribution of water and preservation of temples and among royal edicts (not in conflict with *dharma*) such as giving food to travellers coming to a village, not selling horses to persons from an enemy country. Bṛ. p. 348 vv. 11–12 give as examples of agreements made by groups and reduced to writing the following: ' The construction of a house of assembly, a shed for giving water to travellers, a temple, a tank, a garden, relief to helpless people, performance of sacrificial acts, a common path or defence shall be undertaken by us in proportionate shares.' The Sm.C. says that if a king's order (e. g. a field or house donated by the king should not be sold or mortgaged) is opposed to the general rules of dharma, then it impliedly follows from the above verse (669) that it need not be obeyed.

670. That wicked man who would not observe the rules put in vogue by the king should be censured and fined as he sets at naught the king's order.

671. He (that member of a group) who opposes what is reasonable, who gives no scope to the speaker (when the group meets) or who speaks what is absurd, should be made to pay the first amercement.

672. He who is guilty of sāhasa (a heinous crime), who causes a split (in the group) or who destroys the wealth belonging to the group— all these should be proclaimed to the king and destroyed (by the group); this is the view of Bhṛgu.

673. He who can eat in the same vessel or in the same line with another should be fined if he refuses to do so without pointing out the fault (in him that prevents such commensality of food).

674. Whatever debt was incurred (by the spokesmen of groups) as for the (purposes of) the group but was misappropriated (lit. eaten up) by them or was applied to their individual purposes must be paid by themselves only.

675-676. Those who (subsequently) enter into groups, corporations and classes become equally entitled to the property and liable to the debts (of the groups) previously (acquired

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670. The Sm. C. says that this applies only to such orders as are not opposed to the rules of *s'ruti* and *smṛti*.

671. For carrying on the objects of the group, two, three or five persons were to be appointed as advisors and their advice was to be followed by all. Vide Yāj. II. 188, Bṛ. p. 347 v. 10.

672. Compare Yāj. II. 187, Manu VIII. 219–220 and Bṛ. p. 348 v. 16 and Nār. p. 155. v. 6. Heavy sentences are meant for persistent defiance.

673. Persons of the same sub-caste sit down to meals in the same line. If any one refuses to do so, that is a great dis-respect. He can do so only if he shows some ground which makes the man liable to be excommunicated by the caste.

674. This is an exception to the general rule in 677.

or incurred). One who is inside a group is entitled to a share in the food, the partible things (like grain), in the charities, and religious duties (of the group), but one who has gone out (of a group) is not entitled to a share.

677. Whatever is obtained by them (i. e. by the advisers of groups) or is saved by them or whatever debts are incurred by them for their group and whatever they obtained through the favour of the king should be equally shared by all (members of the group).

678. A group of several inhabitants of the same city is called 'naigama'; a troop of persons bearing various kinds of weapons are declared to be 'vrāta'.

679. A group of merchants and the like is declared to

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677. Yāj. (II. 189-190) says that when the principal men of a group wait on the king the latter should listen to them and send them away with honours and gifts and that whatever they obtain from the king they should hand over as the property of the group. This is 'rājaprasādalabdha'. The principal men of a village represented the village in a boundary dispute. The additional land they may obtain belongs to the whole village. This is 'whatever is obtained &c.' Compare Bṛ p. 349, vv. 22 and 24.

678 Nārada has a verse 'पाषाण्डनैगम-श्रेणिपूगव्रातगणादिषु ॥ संरक्षेत समयं राजा दुर्गे जनपदे तथा' (Nār. p. 153 v. 2), the various terms in which have been differently interpreted by different commentators. Kāt. explains in his own way most of these terms. Yāj. II. 192 is a similar verse. The Mit. explains 'Naigamas' as 'sects like the Pāśupatas who though not accepting all the dogmas of orthodox Brahmanism accept the Vedas (*Nigama*) as authoritative.' The Madanaratna explains 'naigamāḥ' as 'merchants who form a caravan'. The word 'vrāta' occurs even in the Vedas and means 'a collection or multitude' (Ṛg. I. 163. 8, VI. 75. 9, IX. 16. 7, and Vāj. Sam. III. 55). The Mahābhāṣya on Pāṇini V. 2. 21 (vrātena jīvati) explains 'vrāta' as a group of men of several castes and several occupations who make a living by relying on their tall bodies'.

679 The word 'pūga' occurs in the Kauṣītaki-brāhmaṇa 16. 7 (pūgo vai Rudraḥ) where Rudra is called pūga. Pāṇini (V. 2, 52) strings together pūga, gaṇa and saṅgha. Medhātithi (on Manu IV. 30) explains 'pāṣaṇḍi' as 'Bauddhas and others who do not recognise the Vedas'. Mit. explains it similarly; 'pūga' is explained by the Smr. C. as 'elephant and horse riders', while the V. R. says that some explain it as meaning 'multitudes of persons of various castes whose means of subsistence are not fixed.'

be ' pūga ' and those are said to be ' pāṣaṇḍas ' (heretics) who have forsaken the (rules of the) order of ascetics.

680. The corporation of brāhmaṇas is called *gaṇa* and those who subsist by following some craft are called craftsmen.

681. The groups of the followers of Arhat (i. e. the Jainas) and of the followers of Buddha are styled saṅgha and the companies of cāṇḍalas and śvapacas (those who eat dog-flesh) are called gulma.

682. Gaṇas, heretics, pūgas, vrātas and *sreṇis* (corporations) and all others who constitute groups are styled *vargas* (groups). This is what Bṛhaspati says.

(Repentance after purchase and sale, or repentance after purchase or non-delivery after selling).

683. He, who after having purchased a thing and having brought it under his control does not receive it or he who does not deliver it as free from defect (such as being wet), should pay a tenth part of the price to the other (side) and would obtain his property.

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680. The Mit. on Yāj. II. 192 explains ' gaṇa ' as ' an assembly of persons armed who subsist by following one avocation '. 'Gaṇa' occurs in the Vedas (Ṛgveda I. 14. 3, I. 64. 12 and Tai. Saṁ. V. 4. 7 7 speaks of the Maruts as formed into gaṇa).

681. ' Saṅgha ' is well known in Buddhist works. ' Buddha, Dharma and Saṅgha '-these constitute their great trinity. Kaut p. 12 speaks of saṅgha of Vṛṣṇis perishing through their attempt against Dvaipāyaṇa.

682. ' Śreṇi ' occurs in Ṛg. I. 163. 10 (where it is said that ' like haṁsas they work in groups '). The Mit. explains that a śreṇi ' is a guild or corporation that follows the same trade or craft. Compare Gautama XI. 21 where it is said that husbandmen, merchants, herdsmen, money-lenders and craftsmen are authority as to the usages of each ' varga' (group). Vide v. 349 above which is similar.

683. This applies to one who having purchased a thing repents of it and so does not accept delivery or one who having sold a thing does not deliver it; compare Nār. p. 149 v. 1 and p. 146 v. 1.

684. When the time of employing a thing for the purpose (for which it was purchased or sold) has not arrived then (the king) should not make (the defaulting party) pay (the tenth part of price) though receipt (of the thing purchased) or delivery (of the thing sold) is not made. This is the rule up till the 10th day ; beyond that there is no (recognition in law of repentance.)

685. In the case of land (repentance is allowed) to the seller up to the tenth day, the same is the time for the buyer ; twelve days are allowed to sapiṇḍas (for repentance in the case of lands), lesser time than this (is allowed) in other cases.

686. If after purchasing (an article) the purchaser repents and does not receive the article such as milch cattle though it has no defect at the time (of repentance), he should offer a tenth part of the price (to the seller).

687. If the purchaser, after purchasing an article, begins to repent when it has been delivered to him, then a wise man after giving a sixth part of the price should give up the thing purchased.

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684. When a cow or bullock is purchased for milk or carrying burdens and the purchaser refuses to receive the cow or bullock before that time arrives or the seller refuses to deliver, he had not to pay even the 10th part of the price. This is a special case. Compare Manu VIII. 222–223 for the period of ten days for repentance. Nār. (p. 150 vv. 2 and 3) allows a shorter period for repentance. The Par. M. explains that the shorter periods apply to things that are lost or deteriorate by use even for a short time.

686. V. R. explains ' at the time ' as ' at the time of paying the price ' ; while the Sm. C. explains as above. According to V. R. this verse applies where a thing was purchased without examination.

687. V. R. says that the former verse applies where the thing purchased has not yet come into the custody of the purchaser. The Vir. says that this verse (viz. payment of $\frac{1}{6}$) applies where the thing purchased is such as perishes by use.

688. If what was purchased without being properly understood (by examination) is later on proved to have defects, that purchased article may be returned to the owner within the time (prescribed for examination) but not otherwise.

689. Where (a seller) having shown an article free from defects (as the one to be sold) delivers one that is full of defects, he should be made to pay double the price (to the buyer) and an equal fine as punishment (to the king).

690. If an article were to be burnt or carried away (by thieves) the loss falls on the seller only, when having sold it he does not deliver it.

691. And where the purchaser does not accept the article purchased by him when it is being delivered to him, then the seller, if he sells it to another, would not be guilty of any fault,

692. What has been sold by one intoxicated or insane or for inadequate price, or through fear or by one who is not his own master or by an idiot should be relinquished (by the purchaser); it still belongs to him (the seller).

693-694. One (the purchaser) should examine milk animals for three days, a beast of burden for five days and the examination of pearls, diamonds and corals may be for seven days. Half a month (may be allowed) in the case of male bipeds

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688. An article though full of defects cannot be returned after the time prescribed for examination. This embodies the doctrine of *caveat emptor*. Vide vv. 621-623 above.

689. Compare Bṛ. p. 350 v. 4.

690. Compare Yāj. II. 256, Nār. p. 148, 6.

691. Compare Yāj. II. 255, Nār. p. 148 v. 9. Yāj. provides that the loss on resale falls on the defaulting buyer, for which compare sec. 107 of the Indian Contract Act.

692. The last quarter may be construed ' that man (the purchaser) will have to relinquish it. '. Compare Bṛ. p. 350 v. 5.

693-694. These are the same as Nār. p. 150 vv. 5-6. Compare Yāj. II. 177 who compresses in one verse the contents of these two verses. ' Male bipeds '— means slaves. This verse applies where the thing is purchased without examination. If an article is pur-

(for examination) and twice as much in the case of females; ten days for all kinds of seeds and one day for iron and clothes.

695. If some blemish in the article purchased is seen before the periods (specified above) expire, the article should be returned to the seller and the purchaser will get back the price (paid by him).

696. When a garment is worn out by use, is in a tattered condition and soiled, if it is purchased even with all these (patent) defects, it cannot be returned to the seller.

697. If a thing jointly owned (by several) were purchased, a single vile man cannot deliever it (to the buyer). It should not be received nor taken nor should it be sold.

698–699. Where a purchaser after purchasing a chattel for a price thinks that he has made a bad purchase he should return it to the seller the very same day without looking at it. The purchaser returning it on the 2nd day should offer (to the seller) a thirtieth part (of the price) and double of this (i.e. 15th part) on the third day. After that (the third day) the article belongs to the buyer himself (and cannot be returned).

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chased after examination it cannot be returned. Vide Nār. p. 150, v. 4 and Br. p. 350 v. 3.

695. Vide Bṛ. p. 350, v. 6 for the same verse.

696. This is the same as Nār. p. 150 v. 7.

697. Property in a thing belonging to several persons jointly cannot pass by the act of one alone without their consent.

698. ' Without looking at it '-without stopping to examine it. If we read ' avikṣatam ' it means (he should return it) 'without any damage to it' (and if some damage has already resulted then with compensation). Both 698–99 are the same as Nār. pp. 149–150 vv. 2–3.

700. After dividing the value of a thing into five parts, three parts are declared to be the price of it, the fourth part is the profit and the fifth is meant for truth.

701. A compromise and an exchange, if they are unequal, can be annulled for three generations and a sale by order can be annulled up till the 10th year.

702. The conclusion is that there can be no lawful sale or purchase of land without securing the approval of the kinsmen (of the seller and buyer) who are neighbours (i. e. owners of neigbhouring lands) and who are respectable men.

703. In the same village a period of ten nights (for vetoing by kinsmen the sale made by one of the kinsmen) is prescribed; when (land sold is) in another village, the period is three fortnights, when in another country six months, when the language (of the kinsmen vetoing) is different, a year.

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700. This verse applies according to Saras. to trade in saffron. It is somewhat obscure. If 3/5 ths of the value of a thing in the eyes of its owner are offered, it is an adequate price. 1/5 of the value really corresponds to the profit which the seller wants to make and the other 1/5 is what he wants for holding the purchaser to his transaction i.e. it represents what the seller thinks should be compensation to him if the sale goes off.

701. This is cited by the Saras. as from Vṛddha Kātyāyana. An ājñākraya appears to be a purchase by order of the king of a man's land for recovery of the land revenue or other state dues. Vide v. 704 below. The Saras. quotes verses from Bhāradvāja and Sumantu to the effect that a compromise, an exchange and a partition can be resiled from for ten days even when it is fair, but up to nine years when any one of them is unfair. Thus the rule about repentance for ten days in the case of sales is applicable to other transactions also.

702. The Mit. on Yāj. II. 114 quotes a similar verse " स्वग्रामज्ञातिसामन्तदायादानुमतेन च । हिरण्योदकदानेन षड्भिर्गच्छति मेदिनी ॥ ' and remarks that the consent of the villagers, kinsmen and coheirs was to be taken simply for the purpose of giving notice to them of the intended sale and of neighbours for avoiding disputes about boundaries in future. So Kāt. must be interpreted in the same sense.

703. This verse seems to lay down the periods during which kinsmen could prevent a sale by one of them becoming perfect by opposing it and withholding their consent.

704. If the man liable to pay the (land) tax absconds along with the surety for the tax the members of the (royal) audience hall should sell the land of the taxpayer for recovering the tax.

705–706. What is decided upon by the neighbours gathering together who know (the land &c. and its value) and who are afraid of sin as the price of fields, gardens, houses, and the like and of bipeds and quadrupeds, that is said to be their proper price. Dividing that price into eight parts, any price (offered by a buyer) which exceeds by $\frac{1}{8}$ th or is less by $\frac{1}{8}$ th (of the price so decided) is to be known as improper.

707. All that (i.e. a sale for inadequate price) can be annulled even when a hundred years have elapsed. In purchases and sales (a thing) should be sold for that price which the article deserves according to the rules (of śāstra).

708–709, If when a purchase or sale is effected and when the price is less by a fourth, fifth, sixth, seventh or even eighth part (of the proper price arrived as laid down above), all that becomes (a transaction) for an inadequate price and though carried out must be (regarded) as not done (i.e. as invalid). But a purchase is not at all defective when it is (for a price) a little less than (the price arrived at as above).

710. But when a purchase or sale falls short as to price by that part, then the transaction, though carried out, is declared by those who know *dharma* to be invalid.

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706. Supposing the proper price of a house decided upon by the kinsmen is 800 rupees, then any price below 700 is inadequate and any price above 900 is improper or too high.

709. A purchase for 750 when the proper price arrived at under v. 705 is 800 Rs. is good.

710. 'By that part' i. e. by more than $\frac{1}{8}$ th of the proper price.

711. A sale of '*uktalābha*' kind will be valid if it is for more than half (the price of the thing as settled by the rule above) provided more than ten (years) have elapsed (after the period fixed in it). An *avakraya* (transfer for hire by a bailee) becomes valid after enjoyment for three generations and a purchase by mutual agreement (between the seller and buyer) becomes valid at once.

712. The purchase of an article may be rendered valid even when much less than the proper price has been paid ; but (the balance of the price) would have to be paid with compound interest if there is no agreement (as to the time when the balance of the price is to be paid).

(*Breach of a contract of service*).

713. That master, who would not teach (his apprentice)

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711. An 'uktalābha' seems to be the same as the mortgage by conditional sale defined by sec. 58 (C) of the Transfer of Property Act. The Saras. p. 324 quotes the following definition 'किञ्चिच्च द्रव्यमादाय काले दास्यामि ते क्वचित् । नो चेन्मूलमिदं त्यक्तं केदारस्येति यः क्रयः । स उक्तलाभ इत्युक्त उक्तकालेप्यनर्पणात् ॥'. *Avakraya* is a transaction whereby a bailee transfers to another an article for hire e. g. where a washerman to whom a garment had been given for washing gives it to another (than the owner) for a time in return for hire. Vide Mit. on Yāj. II. 238 ('Vikrayāvakryādhānayācitesu paṇān daśa') for definition of avakraya. Pāṇini (IV. 4. 50) uses the word 'avakraya', but it is explained as the dues recoverable by a king from a market &c. Gautama XII. 39 uses 'avakrīta' in the sense of 'what is purchased, but the price of which is altogether unpaid or only partially paid'. This meaning may suit in this verse. If a man purchases a thing without paying the price, ownership in the thing is not perfect for three generations.

712. Compound interest will be calculated for the balance, when no time has been fixed ; if a time has been fixed for the payment of the balance, then till that time only the balance has to be paid. But even within that time if a demand is made, there is compound interest calculated from the date of demand.

713. 'Abhyupetya' means 'after having made an agreement, after having accepted' and 'aśuśrūṣā' means 'not serving or waiting upon.' Compare Nār. p. 133 v. 17. According to Nārada

the craft (for learning which he is apprenticed) and employs him for doing other work, should be fined the first amercement and the apprentice should return from him.

714. An apprentice, although he may have (thoroughly) learnt (the craft), should indeed do (at his teacher's house) the work undertaken by him. The fruits of the work that he may do there (in the teacher's house) belong to the master himself.

715-716. Bhṛgu holds that (a man) becomes a slave as he surrenders himself when free (to another's will) just as the wife (surrenders her person to the husband). (Members) of three varṇas can become slaves but a brāhmaṇa can never be a slave. Slavery in the case of the (three) varṇas viz, kṣatriyas, vaiśyas and śūdras is in their direct order and not in the inverse order when they surrender their independence.

717-718. Even one of the same caste (i. e. a brāhmaṇa) should not make a brāhmaṇa work as a slave, since the glory (lit. lustre) of a king becomes tarnished by the slavery of a brāhmaṇa. A man who is a kṣatriya, vaiśya or śūdra in his duties may occasionally do the work of a slave for a man of the same caste (as his own), but a brāhmaṇa should never

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(p. 131 vv. 2-3), there are five sorts of attendants, pupils (śiṣya), apprentices (antevāsin). hired servant (bhṛtaka), supervising official (adhikarmakṛt) and slave. An apprentice is one who, desirous of learning a craft or art (like dancing and singing), resides with a master with the consent of his relations, having fixed the duration of his apprenticeship (vide Nār. p. 133 v. 16).

714. Even if a pupil masters the techinque of the craft quickly, he had to remain with the teacher till the period of apprenticeship agreed upon expired. Compare Yāj. II. 184 and Nār. p. 134 v. 19.

715-716. ' In the direct order '—a śūdra could be the slave of any master of the four castes, a vaiśya of any master of the first three castes, but not of a śūdra master, a kṣtriya could be a slave of a brāhmaṇa or kṣatriya master but not of a vaiśya or śūdra master. Slavery is here assimilated to anuloma marriages. Compare Nār. p. 137 v. 39 and Yāj. II. 183 (latter half).

be made to do the work of a slave. This is the view of Bṛhaspati.

719. A brāhmaṇa may, if he chooses, do work of an inferior kind for another brāhmaṇa who is possessed of (high) character and Vedic learning; but even then a brāhmaṇa should not do what is impure work.

720. Sweeping fæces and urine, shampooing (the master) when naked and taking charge of (or seizing) bulls and the like–these should generally be done by the issue of female slaves.

721. Where the three varṇas, brāhmaṇa and the rest, become apostates from the order of ascetics, the king should banish the brāhmaṇa from the country and should make the kśatriya and vaiśya work as a slave.

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719. A brāhmaṇa could not be made to work as a slave even by a brāhmaṇa, but a brāhmaṇa may of his own will do menial work for another learned brāhmaṇa as an act of good will (as paropakāra) and not for wages, but he was not to do even for a brāhmaṇa impure acts like sweeping the gate, privy or road, shampooing private parts &c. Nārada divides occupations into śubha and aśubha, which latter are to be done only by slaves. Vide Nār. pp. 131–132 vv. 6–7 for impure acts.

720. V. R. explains 'nagnatvaparimardana' as 'helping to put on clothes when the master is naked'.

721. Compare Nār. p. 137 v. 35. and Yāj. II. 183, who declares that one who has fallen from the order of asceticism becomes a slave of the king till his own death. One who does not do the duties appropriate to a saṁnyāsin is 'pravrajyāvasita' according to the Mit. and becomes a slave if he does not perform the proper *prayas'citta* (penance). Dakṣa declares that he who is an apostate from asceticism should be branded with a red hot piece of iron resembling a dog's foot, and then banished. If the king is himself a vaiśya or śūdra, this verse shows that one who was a kṣatriya and became an apostate may thus become the slave of a vaiśya or śūdra (king). So far this is an exception to v. 716.

722. One may make the śūdra work as a slave, whether he be purchased or not purchased; the creator himself created him for slavery.

723. When a master has sexual intercourse with his female slave and the latter then gives birth to a son, the master looking to the seed (which was his own) should make the female slave free from slavery together with her progeny.

724. The wealth that a slave has belongs to the master (of the slave). But the master is not entitled to that money which (the slave) got by selling himself openly.

725. A woman who is not a slave, if she is married by a slave, becomes a slave, since her husband is her lord and the husband is dependent on the master (whose slave he is).

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722. Manu VIII. 413 reads ' brāhmaṇasya ' for ' svayameva ' in this verse.

723. Compare Kauṭ. p. 183 (text. स्वामिनस्तस्यां दास्यां जातं समातृकमदासं विद्यात्). ' Looking to the seed '— The Sm. C. explains this as ' looking to the fact that she conceived from him and that otherwise his own child would be a slave '. V. R. says that this applies when the master has no son. For the method of freeing a slave, vide Nār. p. 138 vv. 42–43. This verse is referred to in I.L.R. 7 Mad. 407 at p. 412.

724. Compare for the first half Manu VIII. 416 (which is the same as Nār. p. 138 v. 41) and Mahābhārata Udyogaparva 33-64 (which is slightly different). The reading of the Vivādacintāmaṇi ' prasāda-vikrayāt ' gives the best sense, meaning ' what the slave gets through the favour of his master and the price he got by selling himself do not belong to the master'.

725. A woman may be free and marry a slave, then she becomes the slave of the same master. A woman though a slave may not be the slave of that master whose slave her husband is. If her master consents to the marriage then he loses his ownership and she becomes the slave of another. But if the marriage takes place without her owner's consent, then she does not cease to be his slave and her slavery to the husband's master is only indirect.

726–729. If one would take (i. e. buy) a brāhamaṇa woman (as a slave) or would sell her, the king should annul that (transaction) and all of them (buyer, seller &c) would be liable to pay a fine. He who enslaves a woman of a respectable family that took shelter with him at her pleasure or who transfers her to another as a slave should be fined and that transaction should be anulled. He who enjoys the nurse of his child or another woman who is not his slave or the wife of his servant as if she were a slave, should be fined the first amercement. He who though well off and not involved in any misfortune desires to sell a female slave who is faithful and who weeps bitterly should be fined two hundred.

730. He who being not his own master offers himself to another (as a slave) saying 'I am thine', he (the slave) would not secure his desire and his former master would get him back.

731. One who becomes a slave because he is an apostate from the order of asceticism cannot be freed from slavery by anybody. One who was maintained during a famine is freed from slavery if he gives a pair of oxen.

726–729. For 726 compare Viṣṇu V. 151. 'Another woman who is not his slave' i. e. who is placed under his care or who comes to him for shelter. 'Weeping bitterly' i. e. who is unwilling to be sold to another; 'two hundred'— this refers to paṇas. The verse implies that if the slave is not devoted to the master, no fine is incurred by selling her.

730. 'Not his own master' i. e. being already the slave of one man; 'would not secure his desire' i. e. he cannot be the slave of the other man to whom he desires to go. This is the same as Nār. p. 138 v. 40.

731. Nār. (pp. 135–136 vv. 26–27) enumerates fifteen kinds of slaves of whom 'pravrajyāvasita' (apostate &c.) and 'anākālabhṛta', (maintained in a famine) are two. So Kāt.. has in view Nārada's verses. Manu VIII. 415 mentions seven kinds of slaves but he does not exclude a larger number. With the first hal. compare Yāj. II. 183 and Nār. p. 137 v. 135 and vide v. 721 above The only way in which an apostate from asceticism could gain his release would have been by saving the king's life from danger by endangering his own life. Vide Yāj. II. 182 and Nāj. p. 136 v. 30. The latter half of 731 is the same as Nār. p. 136 v. 31.

(*Boundary disputes*)

732. There are six causes of land disputes, viz larger extent of share or deficiency of share, the existence or non-existence (of a share in the land), seizing or possession when there was no possession and boundary.

733. In boundary disputes, enjoyment (i. e. possession) should be relied upon (as the means of proof) and (that) depends upon witnesses. A witness is of two sorts, viz. one who has subscribed himself on a document and one not so.

734. When a dispute between two men arises as to fields, houses, ponds, wells, gardens and dams, the neighbour who dwells on the border is the deciding evidence in all these matters.

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732. The Mit. on Yāj. II. 150 explains these six :— When one says that he has more than five *nivartanas* of land in a particular area and another says that he has only five and not more, this is a dispute as to ādhikya (larger extent); if one says he has five *nivartanas* of land and another says that that man is entitled to less, that is a dispute about deficiency (nyūnatā); where a man says that his share is five nivartanas and another says he has no share, that is a dispute concerning the existence or non-existence of a share; when one says that his land which was never in the enjoyment of another has recently been taken into his possession by that other and that other says his enjoyment is immemorial, that is 'abhogabhukti' cause of dispute. Whether this is the boundary or that is the sixth cause of land dispute. But in all six boundaries have directly or indirectly to be settled and therefore all may be included in the topic 'sīmāvivāda'. A boundary dispute may relate to one between countries, villages, fields and houses.

733. It is better to read 'sa ca sākṣiṣu'. Compare Manu VIII. 252-253. A witness in a boundary dispute is defined by Bṛhaspati as 'आगमं च प्रमाणं च भोगं कालं च नाम च। भूभागलक्षणं चैव ये विदुस्तेत्र साक्षिणः ॥' quoted in स्मृतिच॰ III. p. 537.

734. Compare Vasiṣṭha 16. 13 'गृहक्षेत्रविरोधे सामन्तप्रत्ययः' and Manu VIII. 262.

735. When there are neighbours (available as witnesses) (the king or judge) should decide (disputes about the boundaries of) fields and the like by (the evidence of) neighbours; so also about boundaries of villages, towns and districts.

736. A village is the 'sāmanta' in the case of (another) village, a field in the case of a field and a house in the case of a house, since these stand (as if) embracing (each other) all round.

737. In the absence of them (witnesses) *sāmantas, maulas, vṛddhas* and *uddhṛtas* are in order (the means of decision) in all the six kinds of disputes about immovables. This should not be doubted.

738. *Sāmantas* are those who are inseparably connected (with the village in dispute); then beyond them are those who are connected with them and then come those who verge on those who are connected with the sāmantas — all these are like the lotus (with numerous layers of petals).

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735. 'Sāmanta' is derived from 'samanta' and means 'those who stay round about' (samantād-bhava). Omit the '*avagraha*' after 'sāmantabhāve'.

736. When there is a doubt about the boundaries of a village, the four villages round that village in the four principal directions are the neighbours (sāmantas). The words village, field, house, stand for persons dwelling therein or owning them. Compare Manu VIII. 258.

737. Maulas and the other two are defined in vv. 743--745. The six kinds are those in v. 732. 'In the absence of them'— in the absence of the two kinds of witnesses mentioned in verse 733. Vide Manu VIII. 258 for sāmantas in the absence of witnesses.

738. The four villages immediately on the boundary of the village in dispute are called *sāmantas* (or saṁsaktas); these are sāmantas *par excellence*; the four villages beyond these four are 'saṁsaktasakta'. The four villages even beyond the 2nd group of four are 'saṁsaktasaktasaṁsakta'. These latter two classes also may be called sāmantas in a secondary sense. They resemble a lotus, the inner petals being sāmantas, the next layer being the saṃsaktasaktas and so on.

739--740. When the sāmantas (the first row of surrounding villages) are shown to be vitiated by defects for establishing the purpose (viz. the correct boundary) the decision should be made, as the matter (of boundaries) is a very important one, by (the evidence of) those (villages or villagers) who come immediately after the (first row of) sāmantas. There is no doubt about this. When faults (are shown) in those who come immediately after the sāmantas (the first group of villages), those (i. e. the third group) who are after these (after the 2nd group) are declared (to be the persons whose evidence is decisive). But the king who knows the law should not hold those who are shown to be vitiated (as proper persons for giving evidence as to boundaries).

741. The sāmantas (neighbouring villagers) are not free from their duty of (helping in) decision (of a boundry dispute) by (pretending) ignorance. When they profess that they are ignorant, they should be fined and (the king) should further proceed with the consideration (of the boundary dispute); when they (sāmantas) have deposed, and there is contradiction (in their testimony) they should be fined the highest amercement.

742. Giving up neighbours (sāmantas) if they are vitiated (by partiality &c.) the king should settle (the

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739–740. ' Vitiated by defects ' i. e. they are seen to be partial owing to friendship or enmity. The sāmantas even though shown to be partial owing to friendship or enmity are not to be regarded as proper persons simply because they are sāmantas; if they are partial then the next row (saṁsaktasaktas) are to be relied upon.

741. ' Further proceed ' i. e. he should rely on documents and on the evidence of other persons (like *maulas* &c.). Vide Vas. 16-14 ' सामन्तविरोधे लेख्यप्रत्ययः '. Nār. p. 156 v. 7 prescribes the second amercement in this case and so do Manu VIII. 263 and Yāj. II. 53. Therefore Kātyāyana's rule is applicable where their deposition is grossly false.

742. ' Others '— these are persons other than sāmantas, i. e. they are citizens, and other villagers &c. It is better to read ' samīkṣya ' (having considered) or ' sammarśya ' as V. R. and

boundary by mixing up others with the *maulas* and the rest. Those who know the law declare this to be the law (on boundary disputes).

743. Those are called by the sages *maulas* who were at first sāmantas (of the disputed land) and afterwards migrated to another country, (being called *maulas*) because they (were) principal ones (at one time).

744. Those are called *vṛddhas*, who, whether they are actually old or not, being endowed with the (good) qualities of men, saw the matter (of the boundary) when it was effected.

745. They are known to be *uddhṛtas* since they being marked with the characteristics of knowing (the boundary) from others, enjoyment, recovering the taxes (of the land in dispute), popular report, help to decide the matter.

746. Sāmantas are the first means of proof (in boundary disputes), but if their undesirability is pointed out, then those who are beyond them (are the means) provided they are

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Sm. C. respectively do. Manu VIII. 259 also says that in the absence of sāmantas, the king should rely on *maulas* and in the absence of these on others.

743. 'Maula' is derived by Kāt. from 'mūla' (the root). At one time being sāmantas they were of prime importance and hence they are called maulas (though they are no longer sāmantas).

744. 'Whether they are actually old or not — Being old is not an essential requisite of the definition. They must have seen the boundary being actually laid down or described in former times.

745. Uddhṛtas are those who know the boundary in an indirect way i. e. by hearsay &c. 'Kārya' is explained as 'karagrahaṇa', 'ākhyāna' as 'vārtā' and 'upaśravaṇa' as 'parasparaprasiddhi' by Aparārka.

746. This verse declars that sāmantas or saṁsaktas are the principal persons; if faults (due to friendship or hatred) are shown in them, then the next group (saṁsaktasaktas) is to be taken; but

possessed of good qualities and are double in number (of the sāmantas); those other than these last (i. e. saṁsaktasakta-saṁsakta) must be three times as many (as the *sāmantas*).

747. Even a single person, if acceptable to both (parties to the dispute), may in some cases lay down the boundary as it should be; he should do so clad in red clothes with an unperturbed mind and after placing a clod of earth on his head.

748. In the absence of all, (the proper boundary) is the one determined by the king himself who is free from all sorts of apprehensions.

749. (This procedure should be followed in deciding boundary disputes) about large fields, wells, tanks, enclosed fields, gardens, houses, mansions, cottages, king's palaces and temples.

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their number must be double of the saṁsaktas. Yāj. II. 152 laid down that the number of sāmantas must be 4, 8 or ten. So the saṁsaktasaktas must be 8, 16 or 20. Compare Śaṅkha-Likhita ' गृहक्षेत्रयोर्विरोधे सामन्तप्रत्ययः, सामन्तविरोधे अभिलेख्यप्रत्ययः, अभिलेख्यविरोधे ग्रामनगरवृद्धश्रेणिप्रत्ययः, ग्रामनगरवृद्धश्रेणिविरोधे दशवर्षभुक्तमन्यत्र राजविप्रस्वात् ' (quoted in V. R. p. 208).

747. Compare Bṛ. p. 352 v. 11. Nār. p. 157 v. 9 laid down the general rule that a single man should not fix a boundary, but in v. 10 he allowed even a single man to do so. The wearing of red garments and placing earth on the head are prescribed even in the case of many by Manu VIII. 256 and Yāj. II. 152.

748. When there were no witnesses, no sāmantas and the rest, no indications such as trees &c. for settling the boundary, the king was to settle it according to his own lights. Vide Manu VIII. 265, Yāj. II. 153 (latter half), Nār. p. 157. v. 11.

749. Compare Manu VIII. 262, Yāj. II. 154, Nār. p. 157. v. 12. ' Kedāra ' is explained ' as a field with low embankments '.

750. Of the many persons gathered together (for settling the dispute) if all do not give decisive testimony through fear or greed, each of them should be made to pay the highest amercement.

751. In the case of (settling a boundary dispute by) walking over the boundary, in the ordeal by holy water, and in swearing by touching the feet (of idols, elders or brāhmaṇas), (the visitation of) divine disfavour or royal disfavour is to be expected within three fort-nights, one fort-night, a week respectively.

752-3 One should not interfere with the base of the wall, a drain (or waterspout), a balcony, window, water-course and dwelling house (of another); one who obstructs these would be liable to fine. These are not to be added (to one's house) after the first building of it (so as to cause obstruction or annoyance to another); one should not open a window (so as to command a view) in the interior of another's house or should not construct a water-course (that will drain off rain water) on another's house.

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750. Vide v. 741 above and note thereon. Compare Manu VIII. 257 (prescribing a fine of 200 paṇas for sākṣi) and v. 263 (which prescribes middle amercement for false sāmantas), Yāj. II. 153 (who prescribes middle amercement i. e. 500 paṇas for sāmantas), Nār. p. 156, v. 7. The Mit. explains that the highest fine is to be awarded if they purposely give false testimony.

751. The idea is that a boundary settled by the evidence of sāmantas &c. should not be regarded as final for three fortnights; if within that period the persons settling that boundary are visited by divine or royal displeasure, then it is to be inferred that they decided falsely.

752-753. Compare Bṛ. p. 354 vv. 24-25 for similar provisions as to the protection of easements; 'should not open a window'— this right of privacy is recognised even now by the courts as prevalent in Gujerat. Vide 2 Bom. L. R. 454, 22 Bom. L. R. 226.

754. One should construct the mounds meant for (depositing) ordure, urine, and filthy water, a fire-place and a pit at a distance of (at least) two cubits from the walls of other people (his neighbours).

755. That by which all men pass at all times without obstruction is called *catuṣpatha* (thoroughfare or road where four roads meet) and that is called rājamārga (king's way) by which all men can pass at certain times.

756. One should not plant anything on that (thoroughfare or rājamārga) nor should obstruct it by (placing on it) anything. A man who does not give precedence on the way to his *guru*, preceptor, the king and the like is liable to fine.

757. He who puts obstruction (by keeping carts &c.) thereon or makes pits or plants trees or wilfully voids excrement thereon (i. e. on the public thoroughfare) should be fined a māṣa.

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754. Aparārka reads ' cakram ' for ' vapram ' which is explained by V. R. as ' machine for pressing oil '. Compare Bṛ. p. 354 v. 26.

755. Read ' aniruddhā ' for ' aniruddho '. Compare Bṛ. p. 354 v. 27 who calls catuṣpatha by the name ' saṁsaraṇa '.

756. Yāj. I. 34 defines *guru* as one who performs all the saṁskāras of a man and imparts the Veda to him, while an *ācārya* is one who performs only the thread ceremony and teaches the Veda. About precedence on the road elaborate rules were laid down from ancient times. Vide Āp. Dh. S. II. 5. 11. 5-9; Gautama VI. 21-22, Manu II. 138-139 (the precedence is to be given to one in a wheeled carriage, one very old, one diseased, one carrying a burden, woman, a snātaka, king, bridegroom); Baud. Dh S. II. 3. 50, Vas. 13. 58-60 and Vanaparva 133. 1. Most of these emphasize that a snātaka or a learned brāhmaṇa was to be given precedence over even the king and Vas. 13. 60 says that all should give precedence to a bride who is being taken in a procession.

757. For ' māṣa ' vide verses 492-493; compare Manu IX. 282 who prescribes a heavier fine (of two kārṣāpaṇas) in the case of one who voids ordure on the rājamārga; but Manu IX. 283 makes an exception in the case of old men, diseased men, pregnant women and children; when they do the same, they are to be only reproved and not fined. This verse is the same as Bṛ. p. 354 v. 28. Compare Kauṭ. p. 145 (text) for fines for throwing dust on the public road and for throwing ordure or urine on holy places, in water etc.

758–59. He who defiles a tank, a garden and holy waters (or *ghats*) with ordure, should be made to remove the filth and should be fined the first amercement. He who soils holy and purifying *tīrthas* (sacred waters or *ghats*) established (or constructed) by saintly persons should be fined the first amercement.

760–761. The fruits and flowers of those trees that grow on the boundary between two fields should be declared (by the king or judge) as joint between the owners of the two fields. But where the branches of trees growing in one man's field spread over another man's field, that man should be known as the owner (of the trees together with the branches) in whose field the trees grow (are born).

762–763. He who, without the permission of the owner, does repairs to a house, garden or tank, does not get (even) his expense (from the owner) when the owner comes (from abroad) if (he made the repairs) without informing the king; but if he informs (the king) and is directed by the king (to do the repairs) he recovers the expenses made thereon (from the owner).

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759. This refers to washing soiled clothes in holy water etc.

760–761. If one owner alone takes all the fruits, he is liable to fine for taking half the fruits. Compare Nār. p. 157–158 vv. 13–14. It is possible to interpret 761 in another way. When the branche of trees growing in one man's field take root in the field of another (as in the case of banyan and similar trees), the branches that become fresh stocks belong to him in whose field the branches take root. But this construction is rather far-fetched and restricted to a few special trees only. Vide 44 Bom. 605 about the right to cut over-hanging trees and also 43 Bom. 164.

762–763. Compare Yāj. II. 157 which applies a similiar rule to the construction of a dike or water-course in another's land. Nār. (p. 159 vv. 20–21) contains the same rule as Yāj. about a dike.

764. (If the owner of a field lying fallow) cannot return through inability (i. e. through want of means) the expenses incurred (by an husbandman) for (turning) fallow land (into arable land), the actual tiller (who makes the expenses) would get all the produce of the field minus an eighth part; for eight years the actual tiller (who spends money) will enjoy the produce (in this way); after that (period) he should hand over the field to the owner.

765–767. When the owner of a field is unable (to cultivate it) or is dead or is not heard of, if a stranger cultivates the field without being prevented by anybody, that man (the stranger) shall enjoy the produce of the field. If the owner returns while the field is being tilled (by a stranger), he can get his field back after returning (to the stranger) all the money spent on turning the waste land (into arable). Till seven years have passed away (the stranger should enjoy the produce) with a deduction of the eighth part. But when the eighth year is finished the owner would get back his field that has been enjoyed (for years by a stranger).

(*Abuse and defamation*)

768. That is said to be harshness of words (i. e. abuse) when one makes the sound " hum " (before another), coughs (before him) or imitates or utters (before another) whatever is censurable according to popular notions.

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764. 'Minus an eighth part'–the eighth part goes to the owner as his due for his ownership.

765–767. The first two are the same as Nār. pp. 159-160 vv. 23-24 There would be conflict between 764 and 767 if 'samāpte' is taken to mean 'is reached'. 'If the owner returns'– this includes 'the son of the owner', where the owner is dead or unheard of. Nār. p. 160 v. 26 says that a field which has not been cultivated for one year becomes half-waste; that which is not cultivated for three years becomes waste and that which is not cultivated for five years is no better than a forest.

768. The sound 'hum' is a sound of defiance.

769. That (abuse) is known to be threefold since it may be either *niṣṭhura, as'līla, or tīvra*. It is known to be *niṣṭhura* when there is reproach (in the words used), *as'līla* is what is styled nyañga (indecent); the wise call that *tīvra* wherein there are charges (of acts) that make a man liable to expulsion from caste.

770. Those are known as niṣṭhura words when one reproaches another with the possession of constituents that are (generally) termed undesirable (or bad), whether they actually exist in him or not.

771. When a man through wrath reduces another to a humiliating position by words so far as his character, country family and the like are concerned, that is known to be *as'līla* speech.

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769. 'Reproach'-one may reproach a man's country (e. g saying to a Gauḍa that Gauḍas are quarrelsome), caste (e. g. saying brāhmanas are very avaricious), family (e. g. members of the Viśvāmitra gotra are cruel), or one's profession.or learning etc. 'Nyaṅga' means 'indecent'. Charging a man with drinking liquor or the like is *tīvra*, as drinking was a mahāpātaka and would involve for a brāhmana expulsion from caste. This is the same as Nār. p. 207 v. 2. Vide Bṛ. p. 355. vv. 2-4 for the three kinds and for the statement that each of the three is in order worse than the preceding. The Tāṇḍya Mahābrāhmaṇa (14. 6. 6.) contains an example of reproach (ākrośa as to caste) 'वत्सश्च मेधातिथिश्च काण्वावास्तां तं वत्सं मेधातिथिराक्रोशदब्राह्मणोसि शूद्रापुत्र इति'. Vide Pāṇini VI. 3. 21 and VIII. 4. 48 for आक्रोश.

770. Even when a man is cripple or blind to call him so to his face is abuse; if a man is not blind, to call him so is also abuse Vide Kauṭ. p 193 (text) and Manu. VIII. 274. Compare exception one to sec. 499 of the Indian Penal Code, where the mere truth of an imputation does not exonerate a man without more.

771. Aparārka and V. R. read 'nyaṅgāvagūraṇam' which means 'treating a man with utter contempt by pointing to one's lowest limbs (private parts etc.)'.

772. That speech is well known as tīvrā, which connects a man with grave sins, which gives rise to friendship or hatred, or which charges a man (with acts that cause) loss of caste.

773. That man is known to be abusive in speech (guilty of abuse) who through wrath enumerates faults in a man (who possesses the opposite virtues) or who declares a man who has no (good) qualities to be one who appreciates good qualities or who asks one man by an epithet applicable to another.

774. That man is known to be guilty of abuse who recites for the sake of mere fault-finding faults in a man who (really) does not possess them or who points out the faults of one man while pretending to refer to another.

775. (The king or judge) should prescribe half the fine (for him) who says ' what I said (in abuse) was said through ignorance, carelessness, rivalry or familiarity; I shall not again say so'.

776-777. Where one man mentions another as *patita* (guilty of grave sin) in order that he may be avoided by others, there he would not be guilty because he says so, provided he establishes that sin (in the man whom he mentions as *patita*). Otherwise he would be as guilty (as the man whose faults he mentions) and if he falsely points out faults the fine (for him) is declared to be the highest.

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772. The great sins were five according to Manu. XI. 54 and. Vas. I. 19-20 and Viṣṇu 35. Vide Āp. Dh. S. I. 7. 21. 7-11, Gautama XXI. 1-3, Baud. Dh. S. II. 1. 40-41 for 'patanīyāni'. Viṣṇu (chapter 38) deals with acts that cause loss of caste (जातिभ्रंश).

775. Compare Kauṭ. p. 193 'प्रमाद्मदमोहादिभिरर्धदण्डाः'.

776—777. 'May be avoided' —to have intercourse with a sinful man led to being equally guilty; hence if one warned another about such a man there was no offence. Compare exceptions 9 and 10 to section 499 of the Indian Penal Code. 'Otherwise' i. e. if he mentions the sins of another not for the purpose of warning others against contact with him. Vide. v. 770 above and Nār. p. 210 v. 21.

778. (The king) should with great concentration (application) establish the (guilt of the man) charged with abuse; the king should with great effort consider what he is informed of as false. Cutting of the tongue is (the proper) expiation (punishment) for those who are addicted to spreading false reports (about others).

(*Assault and battery*)

779. If (the king) is not able to find out the cause of assault by means of inference and the like, then he should employ witnesses or ordeals.

780. That man, who strikes another with a fierce weapon though he may himself have been harassed, is declared to be liable to be punished.

781. For cutting off the ear, the lip, the nose, the foot, the eye, the tongue, the penis, the hand, the punishment is the highest amercement and for causing injury (or wounding) to these, the middle amercement; this is the view of Bhṛgu.

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778. The V. R. explains that the punishment of cutting the tongue is meant for offenders who are not brāhmaṇas and it quotes a sūtra of Hārīta about cutting of tongue. Compare आप. ध. सू. II. 10. 27 14 जिव्हाच्छेदनं शूद्रस्यार्यं धार्मिकमाक्रोशतः. Vide notes above on vv. 479–480.

779. Aparārka explains 'employ ordeals which then stand in place of witnesses.' But this seems farfetched. Vide Yāj. II. 212 and Mit. thereon. The oldest reference in Sanskrit literature to fines for assault is contained in the Taittirīya Saṁhitā II. 6. 10. 2 'Him who strikes a brāhmaṇa, he shall fine a thousand; he who draws blood from a brāhmaṇa shall not see the world of pitṛs etc.'

780. 'Fierce weapon'–like a sword etc. One who is assaulted may exercise the right of private defence of body by striking in return, but he must not exceed it. If slapped with the hand, he cannot use a sword and cut off the man. Compare sections 100 and 101 of the Indian Penal Code. Vide Nār. p. 208 v. 9 and Bṛ. p. 357 v. 4.

782. When man and beasts are struck with a view to cause them great pain, the king should inflict fine in proportion to the pain caused.

783. The punishment for untouchables, gamblers, slaves, for mlecchas, for persistent sinners and for those who are born of unions in the reverse order of castes is beating (whipping) and not in money.

784. The fine should be raised to fourfold when a person's body is brought in contact with vomitted matter, urine or ordure; but (if thrown) on the middle of the body the fine would be sixfold and if on the head, it is eightfold.

785. When the hand is raised (to strike a man of the same caste) the fine is twelve paṇas; the fine is declared to be double of that when the hand strikes persons of one's own caste.

786. Just as in abuse punishments have been declared in accordance with the direct or inverse order of castes (of the guilty person) so also in assaults punishments should be awarded in the same manner.

787. For injury to the organs of the body just as a fine should be prescribed by the king, so also something must be given (by the offender) for appeasing (the person injured) and also for setting up (for curing him) as may be fixed by experts. He (the offender) should pay (all) the expenses for setting the man up including the healing of the wound.

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782. This is Manu. VIII. 286.

783. ' Unions etc. ' -vide Manu X. 11 - 13 for offspring of unions in the reverse order. Compare Nār. p. 209 vv. 11-12 and Bṛ. p. 359 v. 15.

784. ' Fourfold '—fourfold of ten paṇas. Yaj. II. 213 precribes a fine of ten paṇas when ashes or mud is thrown at another. This fine applies when those things are thrown at any part of the body except the head and the trunk

785. Compare Yāj. II 216.

786. Compare Gautama XII. 1.

787. Compare Man III. 287, Yāj. II. 222 and Bṛ· . 358 v. 1

788. As regards those offenders for whom reproof by words and beating (whipping) were declared (to be the punishment), they should be made to pay (the price of) what was carried away or injured by them; and those who are indigent should make up (the loss) by doing work (for the man who is to be recompensed.)

789. That man, who makes asses, bullocks, buffaloes, camels and the like carry burdens at an improper time or when they are tired, or oppressed with thirst or hunger, should be punished with the first amercement.

790. For killing deer and birds (belonging to a person) and for killing snakes, cats, mongoose, dog, pigs (kept by men) the fine is two paṇas and twelve paṇas respectively.

791. He who makes a young cow, animals dedicated to Gods and a sacred bull carry burdens (or carts) should b fined the first amercement and the highest amercement if h kills them.

792. On killing animals, the (offender) should give (to the owner) another animal (of the same type) or its proper price; this is what Manu said.

793 In the case of the destruction of all trees, the settled rule is that the fine must be in proportion to the usefulness of the (several kinds of) trees.

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789. Compare Bṛ p. 359 v. 16.

792. Manu (VIII. 296-298) lays down various fines for killing valuable animals like elephants, horses and cows and less valuable animals like asses and goats &c. and VIII. 288 lays down that he who causes mischief to the belongings of a man should satisfy that man and pay a fine to the king.

793. This is Manu VIII. 285. Compare Viṣṇu V. 55-59 who prescribes the highest amercement for cutting trees the fruits of which are useful, the middle one for cutting off trees the flowers alone of which are useful, 100 kārṣāpaṇas for cutting creepers and bushes and one kārṣāpaṇa for cutting grass and the offender had to pay compensation for the loss of the trees. Yāj. II. 228 prescribes double the ordinary fine for cutting trees near temples, cemeteries, boundaries.

794. If the preceptor were to strike through anger a pupil (with something) other than a creeper, whereby great pain is caused (to the pupil), the father (may in such a case) make a complaint (against the teacher) for the pupil (his son).

(Crimes of violence)

795. That is declared to be *sāhasa* which is an act done with force.

796. Robbing in the presence of guards, carrying away a thing by force–*sāhasa* is of this kind, while (mere) theft is said to be concealing (i. e. depriving a man stealthily).

797. Where an offence coming under the name '*sāhasa*' has taken place without (leaving) indicatory signs (for fastening the guilt), the person (charged with *sāhasa*) must establish his innocence by oaths (and ordeals). This is the rule in all disputes.

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794. Gautama (II. 48-50) lays down that the teacher was to regulate the pupil without beating him but if unable to do so, he might use a thin rope or piece of bamboo and that if he beat the pupil he was to be punished by the king. Compare Āp. Dh. S. I. 2. 8. 29-30 (who does not at all allow beating, but only reproof, not giving food for some time &c.).

795. Compare Nār. p. 202 v. 1. Sāhasa is derived by Nārada from 'sahas' meaning 'force'. The term sāhasa is used to denote violent deeds or heinous offences of every sort. Bṛ. p. 359 v. 1 divides it into four kinds viz. homicide, theft, assault on another's wife and pāruṣya (of two kinds).

796. Compare Manu VIII. 332 (where the word anvaya occurs) ; Yāj. II. 230 and Kauṭ. p. 191 (text, where also 'anvaya' occurs); 'anvaya' has been explained by the Mit. as 'persons guarding the wealth, royal officials &c'.

797. Yāj. (II. 280-281) lays down various circumstances and modes of ascertaining the offender in case of homicide ; vide Bṛ. p 364 vv. 34-36 for the same. Compare with this verse Bṛ. p. 364 vv. 37-38.

798. If several men violently beat one man to death he out of them who gives the fatal blow is declared to be the murderer.

799. One who is the author of the murder by (actually) killing (the deceased) would be liable to be killed in various ways. One should certainly kill without waiting for consideration a man coming with the intention of destroying (a life or a dam).

800. No blame attaches to him who kills wicked men that are ready (to kill another), but when they have desisted from their attempt (to kill), they should be captured and not killed.

801. If a man superior in austerities, Vedic study and birth becomes an ātatāyin (a desperate felon), killing him is not proper; killing is prescribed for a sinner of a lower class. This is the view of Bhṛgu.

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798. This means that he is to suffer the full punishment for murder and the rest are to be awarded lesser punishments. Compare Bṛ. p. 363 v. 31 for the same idea.

799. Vide Yāj. II. 278, 282 (for various ways of carrying out the sentence of death), Bṛ. p. 363 vv. 29, 30, 17, 18.

800. Compare sections 100 and 102 of the Indian Penal Code as to the right of private defence.

801. All are agreed that an *ātatāyin* who is not a brāhmaṇa may be killed outright without incurring any blame. But the minds of all writers of digests were exercised over the question whether a brāhmaṇa ātatāyin could be killed without incurring sin, since there are conflicting texts on the point. In this verse the reference in the first half is to a brāhmaṇa who becomes an ātatāyin. Manu IV. 162 forbids the killing of one's teacher, parents, brāhmaṇas cows &c. Kāt. probably refers to this verse of Manu when he speaks of Bhṛgu's view. But there is another verse of Manu (VIII. 350, which permits the killing of even a *guru* or a brāhmaṇa when he comes as an ātatāyin. So there is a conflict between two verses) of Manu. Vide Mit. on Yāj. II. 21 and my notes on V. M. pp. 415–422 for an elaborate discussion of this topic.

802–803. He who is about to use his sword, poison or fire, he whose hand wields a drawn bow, who kills by the incantations contained in the Atharvaveda, who is a backbiter conveying to the king (information that would lead the king to harm a man), who assaults another's wife, who is bent upon finding out weak points in another (and striking him there)— all these and the like should be known as *ātatāyin* .

804. These wicked men who rob a man of his fame and his character; who deprive (one) of *dharma* and *artha* (are said to be ātatāyins); he who not being charged (or accused) before proceeds to take life or rob (a man) of his all or to commit similar offences is to be known as ātatāyin.

805. One who kills animals having (sharp) claws, horned animals, animals with fangs or tusks, and elephants and horses and other animals when all these are ātatāyin, does not incur any blame.

802–803. ' Incantations &c. ' –There are numerous hymns in the Atharvaveda which were employed against one's enemies e. g; I, 19, II. 19, III. 1 and 2 (which hymns are styled ' mohanāni in the Kauśika sūtra), VII. 108 &c. ' All these and the like '–this shows that the enumeration of ātatāyins here and in other texts is not exhaustive. Vas. III. 16 mentions six kinds of ātatāyins (incendiary, poisoner, one with a raised weapon, one who deprives of all property, one who abducts another's wife or robs him of his field). The word ' ātatāyin ' is applied to Rudra in the Vājasaneya saṁhitā 16. 18 and in the Kāṭhaka saṁhitā 17. 12 and probably means there ' one who always goes about with his bow stretched '. Vide Vas. III. 17, 18 which declare that there is no blame in killing even a learned brāhmaṇa when he is an ātatāyin; also Baud. Dh. S. I. 10. 12; Vishṇu. V. 190–192; Manu. VIII. 350–51.

804. ' Ākṣārita ' means ' accused or charged '. Vide Manu VIII. 354–355 for use of that word.

805. ' Other animals ' i. e. birds that strike with their beaks. Wherever it is said that in killing an ātatāyin man or animal one incurs no blame, the meaning is that he is not liable to the punishment usually laid down for killing a man or animal.

806. Even a brāhmaṇa deserves to be killed if he be guilty of causing abortion, if he be a thief (of gold), or if he strikes a brāhmaṇa woman with a sharp weapon, or if he kills an innocent woman.

807. That man who causes (slight) injury, breakage or total destruction of (valuable) articles would be liable to the first amercement and the owner of the article is entitled to get (another similar) article (or its price).

808. He who steals, breaks or burns the idols of Gods or who causes damage to temples should be punished with the first amercement.

809. He who causes a breach in a rampart wall or pulls it down or shatters it, or obstructs the flow of water (running in a water channel) should be awarded the first amercement.

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806. There is a similar verse of Yāj. (II. 277 the Mitākṣarā interpretation of which differs from Viśvarūpa's, who counts it as II. 281).

807. This verse applies to mischief to valuable articles like crystal. Compare Manu IX. 286. Vide Yāj. II. 223 for fines for mischief to articles of small value.

808. Manu IX. 285 prescribes a fine of 500 for breaking *pratimās* (which, Kullūka explains, were made of clay &c. and so were of an inferior kind), while Viṣṇu V. 174 prescribes the highest amercement for a breaker of images and Śaṅkha-Likhita prescribe a fine of eight hundred for the same offence ' प्रतिमारामकूपसंक्रमध्वजसेतुनिपानभङ्गेषु तत्समुत्थापनं प्रतिसंस्कारोष्टशतं च ' (quoted in V. R. p. 364). These various fines were due to the superiority and value or inferiority of the images.

809. Vide Manu. IX. 289 who prescribes the punishment of banishment for one who causes a breach in the city wall.

(*Theft*)

810. Depriving a man of his wealth, either clandestinely or openly and either by night or by day is known to be theft.

811. (The king) should carefully examine property (alleged to be) stolen (to see) whether the article passed to the hands (of the alleged thief) from another's hand, or whether he took it up without any intention (of stealing) when it lay on the ground (unclaimed) or whether he actually lifted it away as a thief.

812. (Where a trader) deals (with his customers) by means of balances, measures (of corn) and measures of capacity that are imitations or substitutes for true ones or not so should be fined the first amercement.

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810. Compare Nār. p. 204 v. 12. Āp. Dh. S. I. 9. 25. 11 quotes a verse which mentions theft, drinking, incest and killing of a brāhmaṇa as very heavy sins and Āp. Dh. S. I. 9. 25. 4-11 prescribe various prāyaścittas (penances) for theft. The Tai. Saṁ. IV. 1. 10. 2 speaks of thieves (stealing secretly), taskaras (stealing openly) and malimlus (robbers and dacoits). Vide Vāj. Saṁ. XI. 77-79 for the same. Even in the Ṛgveda *taskaras* figure very often (vide I. 191. 5; X. 4. 6.).

811 Compare Nār. p. 23 v. 71 where he says that liars may have the appearance of honest men and *vice versa.*

812. Compare Yāj. II. 244. ' Or not so ' -- i. e. that are not false imitations of true weights. Manu (VIII. 256) divides thieves (*taskaras*) into open (prakāśa) and clandestine (aprakāśa) and instances traders dealing in merchandise as open thieves and those who hide themselves in forests as clandestine ones. Vide Manu VIII. 258-260, Nār. p. 223 vv. 1-5 for other examples of the two kinds. This verse deals with traders who use false balances or measures or who use clods of earth as weights and deceive people or those who without using false or wrong weights &c. deceive people. Viṣṇu V. 122 prescribes highest amercement for forging balance or measure. Compare Nār. p. 223 v. 2 and Yāj. II. 244. Kaut. p. 103 (II. 19) has a chapter on the superintendent of weights and measures. Śaṅkha-Likhita as quoted in V. R. p. 298 say 'कूटतुलामानप्रतिमानव्यवहारे शारीराङ्गच्छदा वा '.

813–814. What is stolen from the houses in a village, (the king) should make the thief-catchers pay it (to the owners). He should make the guarding officers and wardens of the country (pay the price of stolen articles) if the thief be not found. The property stolen in the village should be restored (or its value be paid) by the headman of the village; in case (the theft took place) in a forest the king must restore (stolen property or its price), but if it took place in a place other than a forest, then it must be restored by the officer appointed to catch thieves.

815–817. Whatever is stolen from any person in one's kingdom must be restored by the king; the king should search for the thing lost and if found (after he pays the price to the owner) he should retain (the article) himself. (The king) should restore with efforts the thing itself that is stolen by thieves; in the absence of the thing the price (thereof should be paid by the king); otherwise the king incurs sin. Even when the thief be caught, if the article stolen be not recovered from him, (the king) should restore the thing (himself) or he should make the thief pay according to his (the king's) pleasure.

813–814. 'Thief-catchers' – officers appointed to trace and catch thieves. 'Ārakṣaka' is explained by V. R. as 'one appointed to guard a village' and the V. C. paraphrases it by a vernacular word 'kotāla' (which seems to be the same as the modern Kotwal). 'Dikpāla' is paraphrased as 'deśapati'. In the inscription of Dharasena II of 'Valabhi' (Ind. Ant. vol 15 p. 187) among several officers we have a 'cauroddharaṇika'; in the inscription of Nārāyanpāla (Ind. Ant. vol. 15 p. 304) we have in a long list 'cauroddharaṇika' 'koṭṭapāla' (who is the same as modern 'kotwal') and 'viṣayapati; in Karhad plate of Kṛṣṇa III dated śake 880 (958 A. D.) we have 'rāṣṭrapati', 'viṣayapati', 'grāmakūta' etc. (Epi. Ind. vol. IV p. 278, 285). 'Vivīta' means 'land reserved for grass, forest'. Compare Āp. Dh. S. II 10. 26. 4–8; Gautama X. 46–47 (for the king's liability to restore); Yāj. II. 271, Nār. p. 225 v. 17

815–817. Compare Viśhnu. III, 65–66 with 816. The V. R. seems to explain the last half of 817 as 'the king should hand over the thief to the owner or should himself pay for the price of the thing stolen'.

818–819. When thieves are being made to restore (articles alleged to be stolen) if there be a doubt as to the offence, the person who was robbed should be made to take oaths or he should establish (his allegation of stolen articles) by (the evidence of) his relatives. Where the owner recovers a portion of his stolen property from a certain person, he (the owner) should recover the rest from the same man, if he (the owner) establishes (the loss of all the articles alleged).

820. Those who are traitors (or cause destruction of) to their country and those who are highway robbers should be deprived (by the king) of their all and should be ordered to be impaled on a stake.

821. If those who are intent on (i. e. whose duty it is to) tracing thieves were to make one who is not the real thief to restore (or pay the price of) the thing stolen, the persons so compelled would get back what they had to pay when (the real thief) was found and (the king) should make (the officers guilty of harassing the innocent man) pay (to the latter) double (of the price).

818–819. It is better to read ' moṣe' for ' doṣe' with V. R. and then the meaning will be ' if there be a doubt about what things were actually stolen;' ' relatives' —this is only illustrative; it means that he should prove the articles stolen on the testimony of reliable witnesses; ' pratyaye kṛte' may also mean ' if the owner undergoes an ordeal or takes oath as to the articles stolen'. With 819 compare 219 above and Yāj. II. 20 and Viṣhṇu. VI. 22.

820. Compare Bṛ. p. 361 v, 17. If thieves residing in one country cause loss in another country, the king was not to visit them with this punishment. Vide 633 above.

821. Compare Nār. p. 226 v. 20.

822. The king should cut off that limb of a robber with which he causes loss to another, so that he will not do so again.

822 A. If a person takes two cucumbers, or two melons, five mangoes or five pomegranate fruits and a handful of oats or jujubes (from another's land or trees) he does not incure blame.

823. The Mānavas (school of Manu) declare that those (thieves) who are caught (red-handed) with booty should be at once banished (from the kingdom); but this (punishment) is not approved of by Gautamas (the school of Gautama) since it is censured owing to the destruction (or reduction) of people (in the country).

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822. It is possible to understand this verse to mean 'cut off that limb of a robber who causes injury to a similiar limb of another' (in committing a robbery). Compare Manu. IX. 276-277 and VIII. 334, Yāj. II. 274, Nār. p. 228· v. 34.

822 A. Compare Manu. VIII. 339 (taking grass for one's cows, roots and flowers of forest plants, or wood for sacrificial fire from another's land was no theft) and 341 (a traveller of the three higher castes short of food was allowed to take two sugarcanes and two roots from another's field). Vide Gautama XII. 25, Āp. I. 10. 28. 3. Yāj. II. 166 and Nār. p. 219 v. 37. Compare the maxim. 'de minimis non curat lex' and sec. 95 of the Indian Penal Code.

823. Compare Manu. IX. 270. The V. R. and V. C explain that these verses (823-825) apply to brāhmaṇa offenders. Manu VIII. 380 prescribes banishment for a brāhmaṇa offender, whatever his crime may be and forbids the sentence of death Verse 823 prescribes banishment for a brāhmaṇa who is learned.

824–825. The king, after catching (a brāhmaṇa) thief and proclaiming (publicly) the signs of his guilt, whether he be caught with booty or not, provided his heinous crime is established as a fact, should deprive him of all his wealth. (The brāhmaṇa thieves), who are very strong, being guarded with iron fetters, fed on meagre food, should do (hard) labour for the king till their death: this is the view of Kauśika.

826. When a foreigner steals property from another country (and brings it into a country where he is sojourning), the king (of the latter country) should deprive him of that property and should let him off without punishment.

827. Those who supply food to thieves, those who give them fire and water, those who purchase (stolen) goods from them and receive (stolen) property from them and those who hide them – these are all declared to be liable to the same punishment (as the thieves themselves).

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824. Read 'pragṛhya cinham etc'. 824 applies to brāhmaṇa possessed of wealth, but not learned; 825 applies to a brāhmaṇa offender who is neither learned nor rich. In the case of theft Gautama. (XII. 12–13) prescribed for the śūdra offender a fine eight times as much as the price of the article stolen, while a vaiśya, kṣatriya and brāhmaṇa were respectively liable to pay 16, 32, 64 times as much as the price. Vide Manu. VIII. 337–338 for the same rule.

827. Abettors of thieves and receivers of stolen property were dealt with like thieves from ancient times. Compare Gautama XII. 46–47, Āp. Dh. S. I. 9. 25. 5 and II. 11. 29. 1, Manu. IX. 271 and 278 (who employs the word 'bhaktadāyaka'), Yāj. II. 276 (who uses the words 'bhakta', 'agni', and 'udaka'), Nār. p. 225 vv. 14–15. Compare sec. 212 (harbouring an offender) and 411 (receiving stolen property) of the Indian Penal Code.

828. Where one who is not learned officiates as a priest at a sacrifice and where one who is not himself firmly grounded (in any śāstra) sets up as a propounder of it, the king should punish both with the punishment for a thief and should make them abide by the (proper) path.

(*Adultery*)

829. Adultery is said to be ninefold, viz. when it is accompanied by the employment of a go-between; being together at an improper time and place; falling on a woman's neck or seizing her hair or the border of her *sāri* (or gown); seizing a woman by the ear, nose or hand; sitting or taking food with her on the same seat.

830. When a man has forcibly had sexual intercourse with a woman, capital punishment is to be inflicted in that case (by the king) since it is a violation of (good) conduct.

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828. Yāj. II. 202 says that a brāhmaṇa who is devoid of learning and austerities should not accept a gift. Vide also Manu III. 168.

829. Compare Manu VIII. 357, Yāj. II. 283-284, Nār. p. 178 vv. 65-67 and Bṛ. pp. 365-366 vv. 6-8. These nine (and others also) are the indications by which adultery is to be inferred.

830. There is great difference of opinion as to the circumstances in which this verse applies. The V. M. says it applies to the rape of a woman of the same caste by a kṣatriya or a person of an *anuloma* or *pratiloma* union. The Vir. p. 504 says it applies to an offender who is possessed of no merit; while the Sm. C. says it applies to rape of a woman who is the wife of a man of no merit. The punishment for adultery and rape varied according to the caste of the male and the woman, was also different for men and women and also varied according as the woman was a maiden or was married.

831. An unchaste woman who, being under the influence of lust, herself amorously approaches a man should be released by the king's order after being proclaimed (as unchaste) in the presence of people.

832–834. He who commences (a *sāhasa*), who is a friend (or helper), who gives advice as to the method (in which a *sāhasa* is to be carried out), who gives refuge or asylum (to the offender), or supplies weapons, who gives food to wrongdoers, who incites (the offender) to fight

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831. If a woman was guilty of adultery with a person of a lower caste, she was to be devoured by dogs and the paramour was to be killed. Vide Gautama 23. 14–16 (this was the punishment in case no prāyaścitta was performed) and Manu VIII. 371–372, Vasiṣṭha (XXI. 1-5) prescribes that if a śūdra commits adultery with a brāhmaṇa woman, he was to be thrown into fire, the woman was to be shaved, made to sit naked on a dark donkey and sent to perish in the mountains; and that any male of a lower caste guilty of adultery with a woman of higher caste was to be dealt with similarly; vide also Manu. VIII. 359. Āp. Dh. S. II. 10. 26. 20-21 prescribed the penalty of cutting of the testicles and the penis for the male in adultery with a married woman, but when the woman was a maiden the paramour was to be deprived of all his wealth. A man of a higher caste guilty of adultery with a śūdra married woman was to be banished, while a śūdra male guilty of adultery with a married woman of a higher caste was to be killed, when he was appointed to guard her. Vide. Āp. Dh. S. II. 20. 27. 8–9 and Gautama XII. 2–3. Some writers somewhat softened these severe sentences. Yāj. II. 286 prescribed for a male for adultery with a woman of the same caste highest amercement, with woman of a lower caste the middle one, with a woman if a higher caste death and cutting of the ear for the woman. Compare Manu VIII. 378. Vide v. 487 above for lesser fine for women.

832–834. It is better to read 'yadvopadeśakaḥ' with the Saras. read— 'vaktānu—'; 'destruction &c.' – by poison &c.; 'who connives'—this applies to a man who though not able himself to

or who urges (the offender) for the destruction of the person (killed &c.), who connives at (the commission of an offence) though not related (to the offender), who exposes the faults (of the person killed or harassed), who approves (of the offence), who, though able, does not forbid (or prevent) the commission of it -all these are (as good as) perpetrators of the deed (the offence). (The king) should prescribe punishment for these according to their ability and according to their offence.

(The duties of husband and wife)

835. (A wife) never remaining apart from her husband, being disciplined (or well conducted) and devoted to her husband, should serve (sacrificial) fire with the desire of securing freedom from widowhood and possession of happiness and love.

836. A wife obtains all desired objects only by ministering to her husband. When she comes back on this earth from heaven, she becomes the receptacle of all happiness.

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prevent the offence does not inform others of it so that they may help in preventing it. If we take ' ayukta ' to mean ' not appointed by the king ' as V. R. does, then it would have to be connected with ' doṣavaktā '. Vide verse 827 above and compare Yāj. II. 231, Bṛ. p. 364 v. 32. and Āp. Dh. S. II. 11. 29. I.

835. ' Fire ' —there were three fires (gārhapatya, āvahanīya, and dakṣiṇāgni) required in Vedic sacrifices and the gṛhya rites were performed in domestic fire. ' Saubhāgya ' means ' the husband's affection and happiness '. Manu (IX. 1-102) dilates upon this topic.

836. Compare Manu V. 155, 165-166, Yāj. I. 87. The idea is that by devotion to her husband, she accumulates merit and goes to heaven and that when that merit is exhausted she returns to the earth, but is endowed with all happiness. This is the doctrine of the Upaniṣads (vide Chāndogya Up. V. 10. 1-7 and Vedāntasūtra III. 1. 13).

837. That chaste woman, who after her husband's death abides by the vow of celibacy, being in her conduct like Arundhatī, is honoured in the world of Brahmā.

(*Partition of heritage*)

838. That is declared to be a just (or lawful) division where the fathers and brothers divide the whole (common) property (whatever) in equal shares.

839. Property of the grandfather is of equal ownership between both the father and his sons; but the son is not entitled to ownership over what is acquired by the father himself.

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837. Arundhatī, the wife of Vasiṣṭha, is the highest type of conjugal fidelity and the star of Arundhatī in the Great Bear is shown to the newly married bride. Vide Āśvalāyana gṛhya I. 7. 22. Compare Viṣṇu. 25. 14 who prescribes brahmacarya or anvārohaṇa (being a *sati*) and also 25. 17; Bṛ. p. 369 v. 10, Manu V. 159-160. The Sm. C. III. p. 597 quotes a verse of Aṅgiras 'मृते भर्तरि या नारी समारोहेद्धुताशनम्। सारुन्धतीसमाचारा स्वर्गलोके महीयते ॥'.

838. It is better to read 'pitarau' for 'pitaraḥ' with the Vir. The parents and their sons when coming to a partition of joint family property take each the same share. 'Brothers' --means sons of the father with whom a partition is made. Compare Bṛ. p. 370 v. 2. When the sons came to a partition during the father's life-time or after his death, the mother was entitled to a share equal to that of a son. Vide Yāj. II. 115, Nār. p. 192 v. 12.

839. This verse embodies the central conception of the Mitākṣarā school as to the equal ownership of father and sons in ancestral property. Compare Yāj. II. 121, Viṣṇu. 17. 2, Bṛ. p. 370 v. 3. The Mit. on Yāj. II. 121 explains that verses like Yāj. II. 114, Nār. p. 191 v. 12, Bṛ. p. 370 v. 4 (which allow the father to make an unequal distribution among his sons) refer to the father's self-acquired property. Viṣṇu. 17. 1. explicitly states this. The text of Bṛ. p. 189 v. 4 is quoted in I. L. R. 10 Bom. 528 at p. 547 and Yāj. II 114 is quoted by Telang J. in I. L. R. 16 Bom. at p. 48 and spoken of as a general and notorious principle.

840. The grandfather's property, the father's property and whatever else is acquired by themselves (with joint efforts)– all these are divided when there is a partition between coheirs (or coparceners).

841. A house, fields, cattle and similar visible (effects or estate) should be divided ; if there is a suspicion that (certain joint property) is concealed, an ordeal is prescribed (in that case).

842. Household utensils, beasts of burden, milch cattle, ornaments and slaves—these visible effects are divided. Bhṛgu declared the kośa (ordeal) when (there was a doubt whether certain joint property) was concealed.

843. In a partition while the father is living, the father should not make a distinction between one son (and other

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840. 'Whatever else is acquired' –this refers to property acquired with the help of ancestral or joint property, since what is acquired by a coheir without using joint funds would be his self-acquisition. This verse is quoted in *Ponappa Pillai* v *Pappuvayyangar* 4 Mad. 1, at p. 49.

841. Vide verse 415 above which prescribes the kośa ordeal in disputes about partition.

842. Aparārka says that the kośa ordeal is only illustrative, but the words of Kāt. in 415 appear to forbid other ordeals. Compare Bṛ. 'गृहोपस्करवाह्यादिदोह्याभरणकर्मिणः । दृश्यमाना विभज्यन्ते गूढे कोशो विधीयते ॥' (quoted in Sm. C. III, p. 636).

843. 'Should not make a distinction' —by giving a larger share to one son as compared to the shares given to other sons; 'suddenly'—through wrath against other sons or extreme affection for one son; 'without cause' --- if there be no causes for disinheriting him such as 'pātitya' &c. Kauṭ. (p. 161 text) has these very words 'जीवद्विभागे पिता नैकं विशेषयेत् । न चैकमकारणान्निर्भजेत ।' Even the Ṛgveda

sons) nor should he suddenly deprive a son of his share without any cause.

844. Partition is ordained among (coparceners) who have attained (years of) understanding of worldly affairs; and in the case of men they attain understanding of affairs at the sixteenth year.

845. The property (share in the joint estate) of those who have not attained years of discretion, being made free from expenses, should be kept (by the other coheirs) with their (the minors') relatives and friends; the same should be done (to the shares) of those who have gone abroad.

845 A. All (coheirs) should protect the share of the (coheir) who has gone abroad; and his share of the ancestral

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(I. 70. 10.) appears to refer to the practice of the division of property during the lifetime of the father (when old). Vide Baud. Dh. S. II. 2. 8. and Yāj. II. 114, Śaṅkha-Likhita ('जीवति वा पितरि रिक्थभागोनुमतः प्रकाशं वा मिथो वा धर्मतः' quoted in V. R. p. 463), Nār. p. 191, v. 4 for distribution during father's lifetime.

844. Compare Kauṭ. p. 161 (text. 'प्राप्तव्यवहाराणां विभागः' and p. 154 'द्वादशवर्षा स्त्री प्राप्तव्यवहारा भवति षोडशवर्षः पुमान्)'. Nār. p. 51 v. 35 says that a man is a minor till he attains the16th year. There is a controversy among commentators whether minority ended at the beginning of the 16th year or at the end. Many hold the former view, but the V. R. (p. 599) holds that minority ends with the end of the 16th year.

845. Compare Kauṭ p. 161 (अप्राप्तव्यवहाराणां देयविशुद्धं मातृबन्धुषु ग्रामवृद्धेषु वा स्थापयेयुर्व्यवहारप्रापणात् प्रोषितस्य वा), Gautama X. 48, Baud. Dh. S. II. 2. 37 (तेषामप्राप्तव्यवहाराणामंशान् सोपचयान्सुगुप्तान्निदध्युराव्यवहारप्रापणात् ') Manu, VIII. 27, Viṣṇu. III. 65, and Vas. 16. 7-8 cast upon the king the duty of protecting minor's estate; 'free from expenses' i. e. after deducting all the debts and charges due from the family for which the minor member's share would be liable.

845 A. According to Nārada (p. 51. v. 35) 'poganda' means a minor who has not attained the 16th year. Manu VIII. 148 appears to use it in the same sense. But Amarasiṁha explains it as

estate should be guarded by the relatives, if his sons are minor or if he be dead. After him his minor (sons) should partition the wealth according to their shares.

846. All persons entitled to the ancestral wealth must pay at the time of partition all the debts incurred by the brother, paternal uncle or mother for the purpose of the family.

847. Those debts should be paid to the creditor which are established by proof (by the creditor) after a dispute is raised about them; and (the king or judge) should not cause debts (contracted by one) to be paid (by the other members) otherwise.

848. What is (promised by the father) for a religious and chritable purpose, what is promised (by the father) out of affection and that debt (of the father) which the father has specially enjoined (upon sons to pay) – these debts when found should be divided by the sons; there can be no payment out of the paternal wealth (of any other debt).

' one who has a crippled limb or one who is devoid of a limb. ' Kāt. follows Nārada and Manu. ' His minor sons '—we have to understand that they should do so after attaining majority.

846. Compare Yāj. II. 117, Nār. p. 197. v. 32.

847. ' Those debts ' —i. e. those contracted by the brother, paternal uncle &c.

848. This verse is variously explained. Most writers connect ' when found ' with debt; but the V. M. takes it separately meaning ' visible wealth and debts should be divided.' ' Svaniyojitam ' is explained by V. M. as ' what is incurred by the father himself '. Vide verse 566 above. As to gift through affection, vide Yāj. II. 123 (first half).

849–50. In a partition with coparceners one should discharge a debt that was incurred by the father, a debt that was incurred for paying off the father's debt, one's own debt incurred by another (for one's family) and a debt incurred by one's self. After paying off (the father's) debt and (his) gifts through affection the rest (of the property) should be divided.

851. The father gets two shares or half from the wealth acquired by the son; when the father is dead the mother also gets a share equal to that of a son.

852. The wise should so arrange the extent of shares (among dividing heirs) that the wealth obtained by partition may more and more be employed for purposes of sacrifice.

849–50. It is better to read 'sambaddham' for 'saṁśuddham.' Compare Nār. p. 197 v. 32, Manu VIII. 166. These two verses are quoted in *Ponappa Pillai* v *Pappuvayyangar* 4 Mad. 1 at p. 49.

851. The first half is interpreted according to the Dāyabhāga, which gives two interpretations. If the son acquires wealth with the help of ancestral funds, then the father gets half of it, the son who earned it gets two shares and the other sons one share each; if the son acquired wealth without the help of ancestral funds, then the father and the son who acquires each get two shares and the other sons get no share. The other interpretation is that in wealth acquired by the son the father gets half if the father is possessed of learning &c. and if he is not so he gets two shares. The Vir. pp. 566, 567 severely criticizes the Dāyabhāga and interprets it to mean 'the father because he acquires the wealth and begets the son should take two shares (in property acquired by himself) or half of it.' Compare Nār. p. 191 v. 12 with this verse. Vide Bṛ. p. 370 v. 5 for two shares for the father. Compare Yāj. II. 123 (latter half) and Viṣṇu. 18. 34 with the latter half.

853. A single (coparcener) has not in every day life the absolute power to make even a partition of ancestral estate. One can only enjoy (the ancestral estate), but one cannot (by himself) make a gift or sale of it.

854. Coheirs, whether they be separated or unseparated, are equel as to immoveable property; for a single one (out of them) has no power to make a gift, mortgage or sale.

852-853. In I. L. R. 33 All 118 at p. 121 it was said that the text of Yāj. giving a share to the mother implies an actual division of the family property and that a mere severance of interests did not confer on the mother a right to a share equal to that of a son. Vide. I. L. R. 50. All 532 at p. 534. The primary idea is that wealth is intended for performing sacrifices. Therefore a larger share should be given to that one among brothers who by his learning and conduct is expected to spend much of his share on sacrifices. Vide the verse 'यज्ञार्थं विहितं वित्तं तस्मात्ताद्विनियोजयेत् ॥ स्थानेषु धर्मजुष्टेषु न स्त्रीमूर्खविधर्मिषु॥' The Mit. (on Yāj. II. 135) however does not accept that this verse represents the correct position. Kāt. seems to favour the views contained in that verse. Vide Bṛ. p. 371 v. 10 for a similar proposition. 'The absolute power.........estate'—this means that a single coparcener cannot without the consent of the others make a division by metes and bounds of ancestral estate.

854. This verse is variously explained. The Mit. (on Yāj. II. 114) says that in a state of union a single member cannot enter into a transaction of sale &c. without the consent of the others, but that after partition, the member can sell the property that has fallen to his share, but the consent of the other coheirs should be taken for dispelling all doubts about their having been separated and for effecting transactions with ease. The Sm. C. and Madanaratna say that where immoveable property has not been divided, but only movables were divided and it was agreed that only the produce of the immovable property was to be divided, the immovable property cannot be sold without the consent of the others. The Dāyabhāga explains that this verse prohibiting alienation even after partition simply indicates that if a vicious man sells his property so as to ruin his family he incurs sin, but that this verse does not mean that the sale (of the property fallen to his share) is invalid. Vide Bṛ. p. 384 v. 93 for practically the same verse.

855–856. If an undivided younger brother dies (the other brothers) should make his son take a share of the inheritance if he has not obtained from his grandfather a livelihood (i. e. a share); he should obtain from his uncle or his uncle's son the share which his father would have got. That very share would be the legal share of all the brothers (who are sons of the man dying). Or even a son (of that son of the brother dying) would obtain (that share); beyond (this last) there is a cessation (of succession to that share).

857. When a son of the body is born, (other kinds of) sons take only a fourth share if of the same caste (as

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855–856. 'Younger brother'—this is only illustrative and applies to even an elder brother; 'the share which his father &c.'—that is, the division is to be through the father, as laid down by Yāj II. 120 (latter half); 'beyond this last there is cessation' i. e. the 4th in descent from the propositus would not get a share, if there are sons, grand-sons or great-grandsons of the propositus alive. Vide for full explanation my notes to V. M. pp. 147 - 149. Suppose A has two undivided sons B and C. B dies undivided leaving a son D and then A dies. This verse declares that D though alone will get on a partition his father's half share from C or C's sons even if they are many. If D dies without claiming a partition and leaves a son E, the latter will get onehalf of the property of A. If B, D, E all die in the life-time of A without claiming partition and E leaves a son F and C or his sons or grandsons are living then F will not be entitled to claim a share from C. When A dies F is the fourth from the propositus A. These verses are quoted in *Debi Pershad* v *Thakur Dial* I. L. R 1 All 105 (F. B.) at p. 111. Vide *Moro* v *Ganesh* 10 Bom. H. C. R. 444 for a lucid exposition of these verses and Devala's text (at.pp. 461, 466–467).

857. Yāj. II. 128–132 enumerates 12 sons, aurasa, putrikāputra, kṣetraja, gūḍhaja, kānīna, paunarbhava, dattaka, krīta, kṛtrima, svayam-datta, sahoḍhaja, and apaviddha. Manu, IX,

the owner's); but (other kinds of) sons who are not of the same caste (as the owner) are entitled to receive only food and raiment.

158–160 enumerats twelve sons, 11 of which are the same as those of Yāj., but the śaudra(son of a brāhmaṇa from a śūdra wife) mentioned by Manu as 12th is omitted by Yāj. and the putrikāputra enumerated by Yāj. is separately mentioned by Manu (IX. 136). It is therefore that Bṛ. (p. 375 v. 33) says that Manu enumerated thirteen sons. Manu says that six out of the twelve (viz, aurasa, kṣetraja, datta, kṛtrima, gūdhotpanna and apaviddha) are partakers of wealth and also bāndhavas (i. e. they can offer piṇḍa &c.), while the other six are bāndhavas but not dāyādas (i. e. they do not take the estate). Vide Viṣṇu 15. 1–28 for 12 sons and Gautama 28. 30–31. The Mit. explains that 'of the same caste' means that they must be sons of the dattaka, or kṣetraja sort or the like and the words 'not of the same caste' mean sons who are kānīna, gūḍhaja, sahoḍha, and paunarbhava. Vas. 15. 9 says that if after a son is adopted, a son of the body is born to the adopter, the adopted son takes a fourth share. Gautama 28. 32 says generally 'चतुर्थांशिन औरसाद्यभावे'. Kauṭ. (p. 164) has a passage closely agreeing with Kāt. 'औरसे तूत्पन्ने सवर्णास्तृतीयांशहराः, असवर्णा ग्रासाच्छादनभागिनः'. The Kalpataru, Dāyabhāga and V. C. read 'तृतीयांशहराः' in the text of Kāt. In Bengal the adopted son takes $\frac{1}{3}$ of the estate in such circumstances and in Benares $\frac{1}{4}$. In I. L. R. 43 Mad. 398 (at p. 402) the texts' of Kāt., Vas. and Baudhāyana (S. B. E. vol. 14 p. 336) about the $\frac{1}{4}$ share were referred to and it was held that in a suit by the father and *aurasa* son for partition against a son previously adopted, the adopted son takes $\frac{1}{5}$th of the estate and the father and aurasa son take one-fourth each. This means that the $\frac{1}{4}$th share is not $\frac{1}{4}$th of the whole but $\frac{1}{4}$th of what the aurasa son takes. In I. L. R. 17 Bom. 100 and 49 Bom. 672 it was held that this rule about shares applied even to śūdras. In *Nagindas v Bachoo* L. R. 43 I. A. 56 (= 40 Bom. 270) it was held that this rule applies only to the adopted son and subsequently born aurasa son of the same father and not to the *aurasa* son of one brother and the adopted son of another brother, when they are joint. In L. R. 48 I. A. p. 280 (= 44 Mad. 656) it was held that in Madras and Bengal the adopted and subsequently born *aurasa* sons of śudras shared equally.

858. A fourth share of the family estate is desired for daughters who have not been given away in marriage (at the time of partition); while three parts (of the family estate) go to the sons; but if the (family) property be small they (sons and unmarried daughters) share equally.

859. When a person begets a fruit (a son) with the consent of the owner of the field (husband of the wife), both

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858. Compare Manu IX. 118 and Yāj. II. 124 (both of whom prescribe a fourth share). The fourth share is not one-fourth of the whole estate, but, as the Mit. explains, one-fourth of what the unmarried daughter would have got if she had been a son of the same class as herself. Vide my notes to V. M. pp. 157–158 for further explanation. The Dāyabhāga, V. R. and V. C. explain that ¼th is only illustrative and means 'she is entitled to a proper provision for her marriage expenses.' Compare Viṣṇu 15. 31 'अनूढानां स्ववित्तानुरूपेण संस्कारं कुर्यात्', Kauṭ. p. 161 'कन्याभ्यश्च प्रदानिकं' and Śaṅkha — Likhita 'विभज्यमाने दायेभ्यः स्वकन्यालङ्कारं वैवाहिक स्त्रीधनं च कन्या लभते' (quoted in वि. र. p. 495). Vide *Bhagavati Shukul v Ram Jatan* I. L. R. 45 All 297 (at p. 299) where it was held that 'the quarter share' in the Sanskrit texts means as much money as will suffice for marriage expenses, that the provision of a dowry for a daughter was a legal necessity and that where the daughter was a cripple and blind and all the property was worth Rs. 500 an alienation of the whole of it by the widowed mother for raising a dowry for the daughter was justifiable.

859. This verse refers to a topic that very much exercised the minds of ancient sages. In ancient times there was the practice of *niyoga*, whereby a son was begotten under certain circumstances by one man on the wife of another (e. g. vide Gautama 18. 4–8 and Manu IX. 59-62). Just as a fruit grows on land (kṣetra) and seed (bīja) is required for the production of fruit, so the wife is compared to the land (and spoken of as kṣetra). The question arose to whom the son produced under niyoga belonged. Manu (IX. 52-53) seems to suggest that when there was an agreement that the son produced

of them are entitled to the fruit (the son), since a fruit is not produced in the absence of one (of the two).

860. A son born of a woman who leaves an impotent husband and secures another husband is called *paunarbhava* and he clearly belongs to the begetter.

861. That man is said to be impotent whose urine has no froth, whose faeces (when voided) in water sink (to the bottom), and whose generative organ is devoid of erection and *semen*.

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under *niyoga* was to belong to both the husband of the woman and the begetter, he belonged to both and if there was no agreement then he belonged to the husband of the woman (the kṣetrika). Āpastamba (Dh. S. II. 6. 13. 5-6) relying on a brāhmaṇa passage and certain Vedic gāthās held that the son belonged to the begetter. Vas. 17. 63 seems to refer to the same view. Gautama 18. 9-14 refer to several views on the point. Though the Manusmṛti (IX. 64-66) severely condemns *niyoga*, Yāj. I. 68-69, Nār. p. 181 vv. 80–84, Kauṭ. p. 162 as also Gautama (18. 4-8), Vas. 17. 56 57 and 66 appear to have countenanced it. Bṛ. (p. 369 vv. 12–13) condemns it. Śaṅkha-Likhita (as quoted in V. R. pp. 581 and 557) first state the view that the son belongs to the husband of the woman and then state the views of Āṅgirasa and Uśanas 'नियतं क्षेत्रिणामपत्यमिति च वेदवादः' &c. and 'कारकर्तुरपत्यमित्याङ्गिरसो बीजिक्षेत्रिकयोरनुमते तद् बीजं प्रकीर्यते तद् द्विधा शस्यमित्युशनाः।'. Vide Nār. p. 176 v. 58 and Baud. Dh S. II. 2. 17 (S. B. E. vol. 14 p. 226) for the same idea as in this verse.

860. 'Paunarbhava' -- born of a punarbhū (woman twice married). Nār. (pp. 174-175 vv. 45-48) speaks of three kinds of *punarabhūs*. Compare Manu IX. 175 (for *paunarbhava*) and 176, Yāj. II. 130, Viṣṇu 15. 7-9, Vas. 17. 20.

861. Vide Nār. pp. 166-168 for the signs of a potent man and for 14 kinds of impotent men. Compare with this verse Nār. p. 167 v. 10 and Kauṭ, p. 193 'क्लीबभावे स्त्रियः मूत्रफेनमप्सु विष्ठानिमज्जनं च' which means 'as to impotency women, froth of urine and the sinking of the faeces in water' (are the means of judging).

862. The son of a woman married out of her order, one who is born of a husband of the same *gotra* (as that in which the woman was born) and one who is an apostate from the order of ascetics do not obtain the inheritance.

863–64. But the son of a woman married in the wrong order takes the ancestral wealth, when he is of the same class as his father and the son of a woman who is not of the

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862. The word 'akramoḍhāsutaḥ' is interpreted in two ways. Most interpret it as follows : a person was first to marry a girl of his own caste, but he could marry a girl of any of the other castes lower than his own. Vide Manu III. 12. If a brāhmaṇa married a girl of the kṣatriya caste first and then a brāhmaṇa girl, both became *akramoḍhā* (married in the wrong order). In such a case the son of the kṣatriya girl from the brāhmaṇa would not be entitled to a share of his father's estate, but the son of the brāhmaṇa wife would take the wealth as said in the next verse. The other interpretation given by the Vyavahāramayūkha is : when a youger brothe (or sister) was married before an elder brother (or sister), the former was called *parivettṛ* and the latter *parivitta* or *parivinna* and such a procedure was called *parivedana*, which was declared very sinful. Vide Manu III. 172 and Baud. Dh. S. II. 1. 39. This verse declares, according to V. M., that the son of a younger sister married before her elder sister and the son of an elder sister married after a younger one were both excluded from inheritance to their fathers respectively. A *sagotra* marriage was forbidden, but if it took place the son of such a marriage would not take the inheritance. The Dāyabhāga takes 'sagotrā.........jāyate' to refer to the *Kṣetraja* son

863–864. 'The son of a woman who is not of the same caste' etc.—If a brāhmaṇa married a brāhmaṇa girl and also a kṣatriya girl, the sons born of both would take the estate of their brāhmaṇa father, but not equally. The son of the brāhmaṇa woman would take four shares of the estate, while the son of the kṣatriya woman three and so on. Vide Manu IX. 152–154 and Yāj. II. 125 for the shares. 'Son of the woman ... reverse order' —this refers to the offspring of pratiloma unions (such as kṣatriya or vaiśya man

same class with her husband (but is of a lower class) and is married in the proper order (takes the wealth of his father). But the son of a woman who is married in the reverse order does not take the ancestral estate; the approved view (of ancient writers) is that he should be given food and raiment till his death by his kinsmen.

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marrying a brāhmaṇa woman). They were not entitled to the estate of their father if there were other heirs but only to food and raiment. But if there were no other heirs then even the offspring of pratiloma unions took their father's estate. Compare Gautama 28. 43 (शूद्रापुत्रवत्प्रतिलोमास्तु) with v 864. In *Natha* v *chotalal* 32 Bom. L. R. 1348 the two verses of Kātyāyana (862 and 864) are quoted (at p. 1353) and it is held that the son of a brāhmaṇa from a śūdra wife is entitled to inherit a $\frac{1}{10}$th share in the estate of his father as well as of his uncle and that he does not get more than $\frac{1}{10}$th as Manu (IX. 154) expressly says so. It is submitted with great respect that this decision is not in accordance with Hindu Law as understood by most eminent *nibandhakāras* and the principles laid down by the Privy Council. In *Collector of Madura* v *Mootoo Ramalinga* 12 Moore's Indian Appeals 397 it is said at p. 436 'The duty, therefore, of an European judge, who is under the obligation to administer Hindu Law, is *not so much to inquire whether* a *disputed doctrine* is *fairly deducible from the earliest authorities as to ascertain whether it has been received by the particular school which governs the district* with which he has to deal and has there been sanctioned by usage. For under the Hindu system of Law clear proof of usage will outweigh the written text of the Law'. In the case in 32 Bom. L. R. no usage about such marriages was alleged or proved. Their Lordships relied upon passages of Manu, Yājñavalkya and Vijñāneśvara for the view that a marriage of a brāhmaṇa with a śūdra was not forbidden. But their Lordships did not notice the express words of the Vyavahārmayūkha that in the Kali (present) age all secondary sons except *dattaka* are prohibited. 'अत्र दत्तकाभिन्ना गौणाः पुत्राः कलौ वर्ज्याः । दत्तौरसेतरेषां तु पुत्रत्वेन परिग्रह इति तान्निषेधेषु पाठात्' p. 107 of my edition. The Mayūkha is of paramount authority in Guzerat from which the case came. The son of a brāhmaṇa from a śūdra woman is called *niṣāda* or *pāraśava*

865. On failure of kinsmen, he would obtain (inherit) the estate of his father. The kinsmen are not to be made to pay (food and raiment to the son of a pratiloma union) when the kinsmen have taken no wealth of his father.

(*Property not liable to partition*).

866. All that (ancestral) wealth which was taken away by force from the family or was lost (to the family) and which was recovered by the father himself by his own efforts, the father is not liable to share with the sons at the time of partition.

867. That wealth is said to be gained by learning

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by Yāj. I. 91. and pāraśava by Manu (IX. 178) and also śaūdra (Manu IX. 160). All the sons except the *aurasa* are declared by Manu (IX. 180) to be substitutes for the *aurasa* i. e. as secondary and the Mayūkha distinctly says that all secondary sons except dattaka are forbidden in the present age. Hence the son of a brāhmaṇa from a śūdra woman cannot be recognised as a son according to the Mayūkha, whatever the views deducible from ancient smṛtis may be. Doctrines deducible from ancient sages (such as that of niyoga, unequal distribution of ancestral property among sons) are not accepted by nibandhakāras as applicable to the present age. The same rule should have been held applicable in the present case.

866. Compare Manu IX. 209, Yāj. II. 119, Viṣṇu. 18. 43 and Bṛ. p. 371 v. 12 In 5 Mad. H. C. R. 150 it was held that the rule was intended to apply strictly to hereditary property of which the members of the family had been violently or wrongfully dispossessed or adversely kept out of possession for a length of time.

867. This verse defines vidyādhana, which has been a fruitful source of litigation in modern times. Verses 867-873 elucidate what is meant by *vidyādhana*. Compare Manu IX. 206, Yāj. II 119, Viṣṇu 18. 42, Gautama 28. 28, Nār. p. 191. v. 11. This verse is quoted in *Durgadat v Ganesh* 3 All 05 (at p. 312) where it is said that the definition is not exhaustive but only illustrative

which is acquired by means of learning received from another while subsisting on food furnished by a stranger.

868. When a matter (a doubt or difficult point) has been placed (before an assembly of pandits) with a wager, whatever is gained by (showing one's superior) learning is known as vidyādhana (gains of learning); it is not divided at a partition.

869–70. What is acquired from a pupil (i. e. by the profession of teaching), by performing the work of a priest at a sacrifice, by propounding a question, by solving a doubtful point, by exhibiting one's knowledge, by disputation with a

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and it was held that, where a person learnt some astrology from his father and left his father at 14 and then made a fortune, it was his self-acquisition. The following leading cases lay down the limits within which gains of learning may not be liable to partition: 2 Mad. H. C. R. 56, 6 Bom. H. R. p. 1, L. R. 4 I. A. 109, 15 Bom. 32, 45 Cal. 666(=L. R. 45 I. A. 41), L. R.48 I. A. 162 (=2 Lahore 40). But now the Legislature has intervened and by Act XXX of 1930 all doubts have been removed and it is laid down that a Hindu member of a joint family who receives education at the expense of the family can keep his earnings as his self-acquisition, however high the expenditure may be.

868. For another meaning of 'upanyaste' vide my notes on V. M. p 213.

869–870. 'By propounding a question' i. e. when a solution is given to a query made by a sinner &c. about the prāyaścitta for a sin ; 'exhibiting one's knowledge' – i. e. when there is a knotty śāstric point or when the question is who is to be honoured first as the leader among learned brāhmaṇas. 'The same is the rule &c.'— The contrast is between 'vidyā' (purely literary studies) and śilpa (arts and crafts). Whoever acquires an art by his own exertion

rival, what is gained by deep learning — all this is declared to be *vidyādhana* and it is not divided at a partition.

The same is the rule even in the case of artisans and whatever is obtained (as a reward &c.) over and above the proper price of an article (becomes the self-acquisition of that member who sells it).

871. After vanquishing an adversary in a wager whatever is obtained by (superior) knowledge should be known as *vidyādhana* (gains of learning) and is not liable to be partitioned. This is the view of Bṛhaspati.

872. What is gained by an assertion of one's learning, what is obtained from a pupil (i. e. by teaching) and what is acquired on the analogy of priests officiating at a sacrifice —all these are known as vidyādhana; this is the view of Bhṛgu.

873. What is obtained by the superiority of one's learning, and from a sacrificer (by officiating as a priest for him) and from a pupil (by teaching him) —all this is declared to be *viydādhana* ; acquisitions other than these are common (i. e. jointly owned) with others.

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and not at joint family expense keeps his earnings as his self-acquisition. 'Whatever is obtained &c.' — If a member of a joint family is entrusted with the sale of an article belonging to the joint family and by his skill he sells it for a price far in excess of its real value or he gets a reward from the purchaser, the excess or reward is his separate property.

871. 'Superior knowledge' — of dice or gambling.

872. 'By an assertion &c.' — by saying 'I alone of the assembled people know this science' and proving this to be true; 'ṛtviṅ-nyāya' is explained by the Sm. C. and V. M. as 'upadarśana' (supervising a sacrifice &c.). Vide Manu VIII. 206-210 about the rewards of officiating priests at sacrifices.

874. Bṛhaspati declares that the wealth acquired by valour (in battle) by brothers who were instructed in the family or by the father is liable to be divided (among all the members of the family).

875. A learned man should never give to his unlearned kinsmen (brothers &c.) anything from his gains of learning; but a learned man should give his gains of learning to those (of his kinsmen) who are equally learned or more learned than himself.

876. Where a reward was given by the king (or master) being pleased by the actions of a person who putting his own life in danger did an act of strength (or valour) whatever is thus obtained is the wealth due to valour.

877. What is acquired by valour and by learning and what is known as wealth of the wife —all this is not liable to be partitioned by cosharers at the time of partition.

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874. 'Instructed in the family' i. e. instructed at the expense of joint family property or by the other members of the family such as the grand-father, uncle &c. In all cases of partition of *vidyā-dhana* the acquirer got two shares as laid down by Vas. 17. 51.

875. The first half contains a prohibition against a learned man giving a portion of his self acquired *vidyādhana* to his brothers who are not learned. Compare Gautama 28. 28. Nār. p. 191. v. 11 says that out of wealth acquired by learning not imparted at family expense one need not give a share of it to his unlearned coheirs if he is unwilling to do so, but impliedly allows him to do so if he so wills.

876. This is Kātyāyana's definition of 'śauryadhana', which he distinguishes from 'dhvajāhṛta' (v. 878). Other writers like Nārada (p. 190. v. 6) and Bṛ. (p. 381 v. 78) put both under 'śauryadhana'.

877. 'Wealth of the wife'— *strīdhana* or *bhāryādhana* is wealth which a man gets at the time of being married. Bṛ. (p. 381 v. 78) and Nār. (190 v. 6) speak of only 'bhāryādhana'.

878. What is called 'dhvajāhṛta' is declared to be impartible. That is said to be 'dhvajāhṛta' which is recovered from a battle after putting one's life in danger of death for the king (or master) and after putting to flight the army of the adversary.

879. What is obtained at the time of marriage with a maiden of the same caste is known as 'kanyāgata' (coming with a maiden) wealth ; it is declared to be pure and as promoting prosperity.

880. That is known as 'vaivāhika' (nuptial) which comes with the wife ; all wealth of this sort should be known as the means of (performing) dharma (religious duties).

881. Whatever is given at the time of marriage as meant for the bridegroom, all that is the wealth of the maiden and it cannot be partitioned by the cosharers.

882-883. Money that is entered in a document, what ever is intended (or set apart) for a religious purpose, water, slaves, a *nibandha* that descends hereditarily, clothes that

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879-880. Manu IX. 206 and Yāj. II. 118 speak of 'vaivāhika' or 'audvāhika' as impartible. That is the same as the 'bhārāydhana' of Nār. and Bṛ. But Kāt. who has a great *penchant* for distinctions and definitions distinguishes between 'kanyāgata' and '*vaivāhika*' both of which are really 'bhāryādhana'. The V. M. explains 'kanyāgata' differently. It is that wealth which a man obtains at the time of giving his daughter in marriage in the ārṣa form. But this is far-fetched. Vide Yāj. I. 59 and Manu III. 29 for ārṣa form.

881. 'Wealth of the maiden' i. e. wealth that may be called 'kanyāgata' as in 879.

882. 'Money .... document' —this means 'bond debts not yet recovered'. It is possible to take the first half of 882 as one clause (as the V. M. does) the meaning being 'what is entered in a document as set apart for religious purposes'. 'Nibandhaḥ' —This is a technical word. It means 'a pension, a periodical payment in cash or kind or an allowance granted permanently by a king, a cor poration, or a village to a person, temple or a family'. The Mit. on

are worn on the body (every day), ornaments and whatever else that is not fit to be divided-these should be so employed by cosharers that they may be enjoyed (in common by all of them) at the proper time.

Yāj. II. 121 gives as examples ' so many betel leaves from each bundle of betel leaves or so many betelnuts from each betelnut-load ' (to be paid to a temple or brāhmaṇa or other person). The Sm. C. gives as an example the agreement made by traders to deliver to a temple or brāhmaṇa every year or evary month a fixed sum. ' Nibandha ' is paraphrased as ' vṛtti ' by V. M. The word ' nibandha ' is rendered as 'corrody' by Colebrooke in his Digest, but as observed by the Privy council in *Fattesangji* v *DessaiKallianraiji* L. R. I I. A. p. 31 at p. 51 it is not a very happy translation. Vide *Collector of Thana* v *Krishnanath* I. L. R. 5 Bom. 322 at pp. 331-32 (for a discussion of what is included in a *nibandha*); *Collector of Thana* v *Hari Sitaram* I. L. R. 6 Bom. 546 (F. B.) at pp. 555-559; *Lakshmandas* v *Manohar* I. L. R. 10 Bom. 149 ; *Jatindra Mohan* v *Ghanashyam* I. L. R. 50 Cal. 266 at p. 271 (where an annuity was held to be a *nibandha* and various definitions of *nibandha* are given). ' Water ' —Rights to water and wells belonging to a joint Hindu family are ordinarily impartible and so the burden of proving that a well was exclusively assigned to one member at a partition is on him who alleges it ; vide I. L. R. 36 Bom. 275 and 379. ' Clothes that are worn ' —this means ' that clothes that are highly valuable and are worn only on festive occasions are to be divided ' according to price. Vide Bṛ. p. 382 v. 79-81 where he finds fault with Manu (IX. 219) and others for declaring that clothes and other things are impartible and suggests that they may be sold and the price divided &c. These verses of Kat. are quoted in I. L. R. 30 Mad 340 at p. 344 and *Khushalchand* v *Mahadevgiri* (1875) P. J. p. 276 refers to Kāt. and says that any portiou once assigned for purposes of religion shall be excepted from partition so as to be kept available for its intended object. Compare Gautama 28. 44-45, Manu. IX. 219 and 200, Viṣṇu. 18 44, Śaṅkha-Likhita ' न वस्तुविभागो नोदकपात्रालङ्कारोपयुक्तस्त्रीवाससाम् , अपां प्रचारवर्त्मनामविभागश्चेति प्रजापतिः ' quoted in V. R. p. 503), Kauṭ. p. 161 (उदकपात्राण्यपि निष्किञ्चना विभजेरन्नित्याचार्याः).

884. A pasture for cattle, way, clothes (every day) worn on the body, money lent and what is set apart for religious purposes should not be divided: this is the view of Bṛhaspati.

884 A. Whatever is declared as the rule of law in a particular country, caste, group or village, (the king) should prescribe partition of heritage in accordance with that. (This is the view of) Bhṛgu.

(*Fresh partition as to concealed ancestral estate*).

885. If (joint) wealth was concealed, but is afterwards found, the sons should divide it equally with their brothers in the absence (i. e. death) of the father.

886. Whatever was concealed from each other (by the cosharers) and what was divided in an unjust manner and whatever was recovered after (partition) should be partitioned in equal shares. This is the view of Bhṛgu.

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884. It is better to read 'rathyā' (way) for 'rakṣā' (which may mean 'a reserved pasture or forest'). If 'rakṣā' is kept 'gopracāra' would mean 'way for leading cattle'. 'Pracāra' has two meanings, 'way' or 'pasture'. Vide *Shantaram* v *Vaman* I. L. R. 47 Bom. 389 at p. 396 for the meaning of 'pracāra'. Compare Bṛ. p. 382 v 84. 'Prayojya' was explained as 'a book' by Pārijāta. (which says that they should not be divided with fool-s). Viṣṇu 18 44 reads 'योगक्षेमं प्रचारश्च न विभज्यं च पुस्तकम्'.

884. A This is practically the same as the last verse of the Kauṭilīya on 'putravibhāga' (II. 7. p. 165). Manu I. 118 speaks of the dharmas of देश, जाति, कुल and गण.

886. 'Divided in an unjust manner' i. e. divided by giving unequal shares; 'recovered after partition' i. e. debts due from debtors of the family, if recovered after partition, should be equally divided. The meaning is that all cosharers are entitled to divide it and not he alone who finds out concealed wealth &c. Compare Manu IX. 218, Yāj. II. 126, Kauṭ. p. 161 'दुर्विभक्तमन्योन्यापहृतमन्तर्हितमविज्ञातोत्पन्नं वा पुनर्विभजेरन्'.

887. Whatever wealth was acquired by a man after he became separated belongs to him alone (exclusively); but whatever is found after it was carried off (by strangers) or after it was (given up as) lost and what is mentioned already should be again divided.

888. (The king) should not by force compel the cosharer to return (joint) wealth taken away by one cosharer; he should not make undivided coparceners to return (the price of the) enjoyment (over and above their proper share).

(*Partition of a joint field etc. even after a long time*)

889–890. If a man, leaving the common country, goes to another country, his share should be given to his descendant when he comes (to demand it); there is no doubt. Even if he (the descendant) be the third, fifth or even seventh (from the man who left the country), he whould get the share that descends hereditarily on his birth and family name being ascertained.

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887. 'Lost' — a deposit or debt that was regarded as irrecoverable at the time of partition; 'mentioned already' —This refers to verse 886 viz. wealth concealed from other cosharers or inequitably divided.

888. The first half means that a cosharer who takes away more wealth out of the joint property than would properly fall to his share should be made to yield up by other modes than force (such as trick &c). Vide v 478 above and Br. p. 384 v 96. If when the family is undivided one cosharer has more enjoyment of the joint property than others (because he has more children or because other members are absent), he cannot be made to account for the extra enjoyment to his cosharers at the time of partition; because such excessive enjoyment by one is inevitable in a joint family. The Vir. reads 'nivartayet' which means 'the king should not prevent undivided cosharers from enjoying the joint property'.

889–90. 'Common counrty' i. e. the country where he and his cosharers lived. Vide Br. p. 373 vv. 24–25 for same verses. Compare Art. 127 of the Indian Limitation Act.

891. The *gotrajas* (members of the family) should allow (a share in the ancestral) lands to the descendant of a man whom the *maulas* and neighbours know to be a co-owner (in the land) by descent, when he (the descendant) comes (after partition to demand his share).

892. If persons become separate as to ancestral wealth and then again begin to live together, they should again divide (their wealth after living together), but he who acquires property should get two shares.

(*Indications of partition*)

893. When for ten years brothers reside (separately) doing religious observances separately and have separate transactions, they should be known as separate so far as ancestral property is concerned.

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891. The Sm. C. explains that this applies only to lands (and not to movables) and a share will be allowed after the lapse of a long time only as to land. For the meaning of *maulas* vide v. 743 above. This is the same as Bṛ. p. 374 v. 26.

892. This verse refers to a case where divided members again live together i. e. reunite and mix up their shares and one of them acquires more wealth with the help of the wealth that is reunited and so is common. In such a case the acquirer gets two shares and the other members who have joined together get one share each. If any one of the re-united members acquires wealth with his own efforts without detriment to the re-united wealth, he would keep it as his self-acquisition. This is the explanation given by the Dāyabhāga following Śrīkara. Vide Vasiṣṭha 17. 51 and Bṛ. p. 381 v 77.

893. 'Brothers' — this is illustrative and stands for all members of a family that was once joint; 'doing... separately'—the *dharmas* are such as Vaiśvadeva; when members are joint, worship of gods, Vaiśvadeva and other Mahāyajñas and rites are one. Compare Manu IX. 111. Gautama 28. 4. Nār. p. 198 v. 37 and Bṛ, p. 370 v. 6. 'Transactions' such as bearing witness, lending money, standing surety &c. Compare Nār. p. 199 vv. 38-40 and Bṛ. p. 384 v. 92 *Lalubhai* v. *Bai Amrit* I. L. R. 2 Bom. 299 refers to this verse (at p. 309). This verse is almost the same as Nār. p. 199 v, 41.

(*Definition of strīdhana and the kinds thereof*)

894. What was given before the nuptial fire, what was given at the time of the bridal procession, what was given to a woman through affection, what was received from the brother, mother or father – this strīdhana is declared to be sixfold.

895. What is given to women (by anybody) at the time of marriage before (the nuptial) fire, that is declared to be *adhyagni* strīdhana by the wise.

896. That again which a woman obtains when she is being taken (in a procession) from her father's house (to the bridegroom's) is termed strīdhana of the adhyāvahanika kind.

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894. Kātyāyana's treatment of strīdhana is classical and the fullest of all smṛti writers. This verse is practically the same as Manu IX. 194. The Mit. explains that the mention of six is not meant to exclude a larger number, but means that there cannot be less than six kinds. In *Bhugwandeen* v. *Mynabai* 11 Moore's Indian Appeals at 512 it is said that the Vivādacintāmaṇi and the Mayūkha confine *strīdhana* within the definition of Manu and Kātyāyana and that they exclude the property inherited and the other acquisitions which are comprehended in the last clause of the para of the Mitākṣarā. Compare Yāj. II. 143, Viṣṇu 17. 18 for these and other kinds of strīdhana. In the Taittirīya Saṁhitā VI. 2. 1. 1 we read ' for the wife is master of house-hold gear'. This is the germ of the law of Strīdhana. Āp. Dh. S. II. 6. 14. 9 says that the ornaments of a wife belong to her. Vas. 17. 46 refers to the marriage gifts of a woman and Baud. Dh. S. II. 24. 4 says the ornaments of a woman go to her daughters. Gautama 28. 22-24 has three sūtras on strīdhana.

896. The V. R. (p. 523) says that when the married girl is taken back from the bridegroom's house to her father's, what is given by her father-in-law and others is also *adhyāvāhanika* and the V. C says that it is what is obtained at the time of ' dvirāgamana'.

897. Whatever is given (to a woman) through affection by the father-in-law or mother-in-law and what is received at the time of saluting the feet of elders is termed *prītidatta* (gift through affection).

898. That is declared to be śulka, which is obtained as the price of household utensils, of beasts of burden, of milch cattle, ornaments and slaves.

899. Whatever is obtained by a woman after marriage from the family of her husband and also what is similarly obtained from the family of her (father's) kinsmen is said to be *anvādheya* (gift subsequent).

900. Whatever is obtained by a woman through affection after her marriage from her husband or from her parents, that is *anvādheya*. This is the view of Bhṛgu.

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898. 'Śulka ' generally means ' bride price ' i. e. the price paid by the bridegroom for giving the girl in marriage. Vide Manu III. 51 who prohibits the taking of a śulka by the father of the girl for himself, but in III. 54 allows śulka being taken if it is kept apart for the girl herself. The Sm. C. and Vir. explain it as the price of the articles which the bridegroom was in the habit of presenting to the bride at the time of marriage or when he started a home. The Dāyabhāga explains that it is either that wealth which is obtained by a wife as a bribe from artisans for inducing her husband to embark on building a house &c. or it is what is given to a married girl for inducing her to go to her husband's house.

899-900. The two verses convey practically the same meaning. Many digests omit 900. If v. 900 is really Kātyāyana's as the Dāyabhāga and V. R. say, then Kāt. is therein merely transcribing Bhṛgu's view which somewhat restricts the scope of *anvādheya*. Vide Manu IX. 195 which contains the word ' anvādheya '. In I. L. R. 33 Cal. 315 the definition of *anvādheya* (v. 899) is quoted (at p. 320) and it is held that a permanent lease at a nominal rent granted by a father to his married daughter is her *anvādheya stridhana*. In *Sitabai* v. *Vasantrao* 3 Bom. L. R. 201 it. is said that *anvādheya* extends to gifts from parents as well as to gifts from the husband (p. 206).

901 That is known as *saudāyika* which is obtained by a married woman or by a maiden in her husband's or father's house from her brother or from her parents.

(*Discussion of ownership of strīdhana*)

902. The father, mother, the husband, brother and kinsmen should give *strīdhana* to a woman according to their means up to two thousand (paṇas) except immoveable property.

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901. Saudāyika is a technical word used in a peculiar sense by Kāt. For its derivation vide my notes to V. M. p. 285. Saudāyika comprehends several kinds of strīdhana property. It is specially coined for saying that over Saudāyika strīdhana a woman has absolute power of disposal even during her husband's lifetime. It is that wealth which a woman receives from her brother or parents or their relatives but not from her husband or his relations. This is the interpretation of the Sm. C. and V. R. (p. 511), but the Dāyabhāga reads ' भर्तुः सकाशात् ' which runs counter to this explanation. In I. L. R. 39 Mad. 298 Kātyāyana's definition of saudāyika is quoted (at p. 300), the views of the Sm. C. and other digests are set out and it is held that a gift by a father of immoveable property to his daughter before marriage was *saudyāyika* and at her absolute disposed. In 3 Bom. L. R. 201 at p. 207 it is said that *Saudāyika* is not used in contradistinction to *anvādheya* in connection with succession.

902. The Sm. C., Par. M. and V. M. say that this limit of 2000 paṇas is fixed with reference to payment each year. If they want to give to a woman only once in their lifetime or in several years they may give more than two thousand paṇas or give even immoveable property. Sm. C. quotes a similar verse of Vyāsa. Kauṭ. (III. 2. p. 152 text, p. 193 tr.) says that '*vṛitti*' and jewelry constitute *strīdhana*; vṛitti (may be given) up to two thousand as the highest limit and there is no limit as to jewelry '. Par. M. III, p. 549 quotes Bṛhaspati ' दद्याद्दत्तं च पर्याप्तं क्षेत्रांशं वा यदिच्छति '.

903. Whatever was given to a woman on an occasion (or condition) or with a fraudulent intent by the father, brother or husband is not held to be strīdhana.

904. In that wealth which is obtained (by a woman) by mechanical arts or from a stranger through affection the ownership is of the husband; the rest is declared to be the *strīdhana*.

905-906. On obtaining wealth of the *saudāyika* kind it is held (lit. desired) that women have independent ownership (over it), since it was given by them (by the kindred)

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903. If the father or husband gives some ornaments to his daughter or wife for wearing on some special occasion (upādhi means condition) or if a father or husband in fraud of his coparceners gives some family property to his daughter or wife, that cannot become her strīdhana.

904. ' A stranger ' i. e. from one who is a friend, but not the father or brother or other near relative. This verse according to the Dāyabhāga and Vir. means that over such wealth the husband has complete power of disposal even when he is not in distress and the woman who acquires it has no power of gift or sale over it without the husband's consent. But the object of the verse is not to deny that it is strīdhana at all. In *Muthu Ramkrishna* v. *Marimuthu Goundan* 38 Mad. 1036 this verse of Kāt. is quoted (at p. 1040) and it is held that all the texts recognise the wife's ownership in the property acquired by her own labour; they only restrict her right of alienation and make it subject to the wishes of the husband and that where husband and wife jointly earned profits in a trade and purchased properties, the properties were jointly of the husband and wife and on the wife's death her interest devolved on her heirs and not on the husband.

905-906. ' In order ...... condition '— this is the explanation of ' ānṛśaṁsyārtham ' according to V. R. p. 511; others explain it as meaning ' out of affection '; ' always '—even during husband's lifetime. The Digests quote a text of Nārada that over gifts made by the husband through affection women have absolute power

as a support in order that they may not be reduced to a terrible (or wretched) condition. It has been declared that women always have independence in *saudāyika* wealth as regards sale or gift at their pleasure and even in immoveables (if saudāyika).

907. A woman, when her husband is dead, may deal with the gift given by her husband just as she pleases; but

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of disposal except over immoveables (which she cannot dispose of at her pleasure even after his death). Vv. 905–906 are quoted in 1 Mad. H. C. R. p. 85 at p. 90 (note). *Bhagirthibai* v *Kahnojirao* 11 Bom 285 (F. B.) refers to Kāt. on saudāyika (at p. 302). In *Bhau* v *Raghunath* I. L. R. 34 Bom. 229 these two verses and the definition of saudāyika are quoted (on p. 238) and it is held that 'except as to the kind known as saudāyika a woman's power of disposal over her *strīdhana* is during coverture subject to her husband's consent and that she cannot dispose of such strīdhana (other than saudāyika) by will where the husband survives her and is not shown to have assented to the will. Vide *Bhagavanlal* v *Bai Divali* 27 Bom. L. R. 633 (where when a woman had lived 30 or 40 years apart from her husband, inherited property from her father and willed it way, it was held that she was in the peculiar circumstances of the case competent to dispose off by will without her husband's consent) where 30 Bom. 229 was distinguished. Vide *Nathubhai* v *Javer* I. L. R. 1 Bom. 121 where verse 906 is relied upon (at p. 123) for the proposition that a Hindu female is not on account of her sex absolutely disqualified from entering into a contract. In spite of the text of Nārada referred to above it was held in *Mulchand* v *Bai Mancha* I. L. R. 7 Bom. 491 that an absolute bequest by a Hindu of his separate immoveable property to his widow confers on her as full dominion and power of alienation over that property as if the bequest had been made to a stranger.

907. This verse is variously interpreted. 'Bhartṛdāya' is explained by the Sm. C. as the strīdhana given to a woman by her husband through affection', while the V. R. and V. C. take 'bhatṛdāya' as meaning 'the husband's own property'. According to Sm. C. in 'prītidatta' strīdhana from the husband a woman has

she should preserve it while he is alive; or she may spend (the affectionate gift of the husband) on his family.

908-910. If the husband has married two wives and he does not honour (reside with) her (one of them), he should be forcibly made to return (by the king the strīdhana of the ill-treated wife) even when she bestowed it upon him through affection (for him); where food, raiment and residence are denied to (or withheld from) a woman, she may exact her own *strīdhana* and also the share (that would have fallen to her husband on partition) from the coparceners (of her husband). This is the rule of law laid down by Likhita; when she recovers (her wealth) she should reside in the husband's house ; if she is afflicted with disease she may at the time of death go to her kinsmen.

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after his death absolute power of disposal except over immoveables given by him and that during her husband's life she can dispose of the affectionate gifts of the husband only with his consent (even moveables). The last pāda would also mean 'she may pass her day in her husband's family'. 'She should preserve it' — means 'she cannot dispose of it without his consent'. The verse as interpreted by V. R. and V. C. means 'a woman succeeding to her husband's wealth after his death because there is no son &c. may dispose of it as she pleases, except immoveable property, and that when the husband is alive she can spend it only with his consent'. The V. R. (p. 512.) says that Halāyudha and Pārijāta took 'bhartṛdāya' to mean gifts of affection made by the husband and it prefers the view of Prakāśa. I. L. R. 1 Mad. 281 quotes this verse at p. 286.

908-910. In 11 Moore's I. A. 487 at p. 511 and in 8 Mad. 290 at p. 291 this verse is quoted. 908-909 are ascribed to Devala by V. M. but other ancient and weighty authorities ascribe them to Kāt. Both 908 and 909 refer to the husband only. 'Husband's house' – that is though the husband does not honour her, she must stay in her husband's house. This is the old Hindu sentiment to which classical expression is given in the Śākuntala Act V, verse 17

911-912. Neither the husband, nor the son, nor the father, nor the brothers have authority (or power) over *strīdhana* for the purpose of taking it (for themselves) or for giving it away (to others). If anyone of these forcibly consumes *strīdhana* he should be made to return it with interest and should also be liable to a fine.

913-914. If a person (out of the husband, son etc.) were to consume strīdhana amicably after obtaining her consent, then he would be liable to return only the principle, when he becomes well off (or rich enough to pay). Whatever (of strīdhana) was allowed (to be taken) by a woman through affection knowing that (her husband) was afflicted with disease, engulfed in misfortune or harassed (or imprisoned) by creditors, the husband may return at his will.

911-912. Verse 911 is quoted in I. L. R. 1 Bom. 121 at p. 123 and I. L. R. 1 Mad. 281 (at p. 286); in the latter case it was held that a woman purchasing immoveable property with her strīdhana may dispose of it by will. The Sm. C. (III. p. 656) adroitly points out that by marriage a wife gets a sort of dominion over her husband's property, though she is subordinate to him, but the husband has not even that dominion over his wife's *strīdhana*. With 912 compare Manu. IX. 200 and VIII. 29.

913-914. The Sm. C. holds that verse 914 applies only to the husband, while V. R. and V. C. hold that it applies to all those enumerated in verse 911. If we look at Yāj. II. 147 where the husband alone is expressly mentioned, it appears that the interpretation of the Sm. C. is the proper one. Kauṭ. p. 152 (III. 2) closely follows Yāj. (तदात्मपुत्रस्नुषाभर्मणि प्रवासाप्रतिविधाने च भार्याया भोक्तुमदोषः । प्रतिरोधक-व्याधिदुर्भिक्षभयप्रतीकारे धर्मकार्ये च पत्युः ॥). Yāj. II. 147 is quoted in I. L. R. 50 Mad. 941 at pp. 944 and 946 and it is held that 'taken' means 'taken and used'.

915. The husband, the sons, the brothers-in-law and kinsmen on the paternal side of a woman are declared to have no power over her *strīdhana* while she is alive; those that deprive her of it should be fined.

916. That *strīdhana* which was promised (to a woman) by her husband should be paid to her as a debt by the sons (of the husband), provided she resides in the husband's family. she should not reside with her paternal family.

(*Heirs to the wealth of a deceased woman*)

917–918. Sisters having husbands should share with their brothers the strīdhana of their mother; this is the rule of law and a partition (among the brothers and sisters) is prescribed.

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915. Vide v. 912 and Manu VIII. 29 who says that the fine is the one for a thief.

916. 'The sons of the husband' i. e. either her own sons or step-sons. This is only illustrative; even the grand-son would be liable to pay it, as he is liable to pay a debt of the grandfather; The first half is attributed to Devala in V. M. Compare verse 910 above.

917-918. There is great divergence of view as regards the succession to *strīdhana* among the smṛti writers and the *nibandhakāras.* The Mit. on Yāj. II. 145 speaks of two lines of devolution, one for śulka (following Gautama 28. 23.) and the other for all kinds. of strīdhana other than śulka (following Gautama 28. 22, Yāj. II 117 latter half). The Mayūkha speaks of five different lines of devolution viz. for *anvādheya* and *bhartṛprītidatta*; (II) for *Yautaka* ; (III) for śulka; IV for strīdhana of the technical kind other than the first three ; (V) for strīdhana which is not technical. The two verses 917 and 918 are apparently in conflict, the first saying that sisters whose husbands are living take along with brothers, while 918 says that sons succeed to strīdhana only on

In the absence (i.e. on failure) of daughters the wealth (strīdhana) goes to the sons (of the deceased woman); the wealth given by a woman's (paternal or maternal) kinsmen goes in the absence of *bandhus* to her husband.

919. Whatever immoveable property was given by the parents to their daughter always goes to her brothers, if she dies without progeny.

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failure of daughters. Therefore 918 must be interpreted to mean (in accordance with Gautama 28. 22) that unmarried daughters succeed in preference to married daughters and sons. Verse 917 applies to a case where there are no maiden daughters and it lays down that married daughters whose husbands are living succeed along with sons. The word 'sabhartṛkāh' excludes widowed daughters of the deceased woman when there are married ones. The V. R. says that verse 918 (first half) applies to marriage gifts, yautaka. and gifts given by father only. With 917 compare Manu IX. 192 and vide the explanation of Mit. on Yāj. II. 145 of this verse of Manu, where it is made to to mean that full brothers take equally the wealth of their mother and that full sisters do so. The verse of Manu does not mean according to the Mit. that the brothers and sisterrs succeed together. Bṛ. p. 383 v. 87 and Nār. p. 191 v. 9 both say in a general way that strīdhana goes to the children. The Sm. C. says that the latter half applies to the case of a woman married in any of the three forms of marriage, viz. āsura, rākṣasa and paiśāca. That half may also mean ' on failure (of even sons) the wealth given by paternal or maternal relatives goes to such relatives and in their absence to the husband '. Compare with 917 Kauṭ. III. 2. p. 153 ' जीवति भर्तरि मृतायाः पुत्रा दुहितरश्च स्त्रीधनं विभजेरन् ! अपुत्राया दुहितरः । तदभावे भर्ता । ' and with 918 (latter half) Kauṭ. ' शुल्कमन्वाधेयमन्यद्वाबन्धुभिर्दत्तं बान्धवा हरेयुः '. The Mayūkha has ' putragāmi ' in 918. The दायभाग says that 918 applies to śulka and the Sm. C. that it applies to a marriage other than the first five.

919. ' Without progeny '—this is illustrative here and in 92' and includes daughter's daughter and son and son's son also.

920. That strīdhana which was obtained by a woman from her parents in the forms of marriage beginning with the *āsura* is desired (held) to go to her parents on failure of her progeny.

(Heirs such as the widow to the wealth of a sonless man)

921. A sonless (widow) preserving the bed of her husband (unsullied) and residing with her elders and being self-controlled (or forbearing) should enjoy (her husband's property) till her death; after her the (other) heirs (of the husband) would get it (succeed to it).

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920. 'In the forms of .... āsura '— i. e. in any one of the four forms āsura, gāndharva, rākṣasa and paiśāca. These four forms are said to be unapproved and the other four, brāhma, daiva, ārṣa and prājāpatya, are said to be approved forms. Vide Manu III. 21 and Yāj. I. 58–61 for the eight forms. The essence of the āsura form is the receipt of a bride-price from the bridegroom. Compare Manu IX. 197 and Yāj. II. 145 who prescribes that on failure of progeny, strīdhana goes to the husband if the marriage be in the brāhma and other approved forms and to the father if it is in the āsura and the other unapproved forms. Compare Kauṭilya p. 152 (text).

921. 'Should enjoy '— i. e., she has no power of sale or gift. ' Heirs '-of her husband such as daughter, daughter's son, mother, father, brother &c. ' Being self-controlled ' — the V. C. explains ' kṣāntā ' as not spending too much. Compare Bṛ. p. 377 vv. 49-50 and Kauṭ (III. 2, p. 153) ' अपुत्रा पतिशयनं पालयन्ती गुरुसमीपे स्त्री धनमायुःक्षयाद्भुञ्जीत आपदर्थं हि स्त्रीधनम् । ऊर्ध्वं दायादं गच्छेत् '. I. L. R. 2 All. 150 (F. B.) refers to this verse of Kāt. (at p. 152) and holds that subsequent unchastity does not cause a forfeiture in the case of a widow. This verse and v. 924 are the foundation of the rights of a widow and the reversioners after her death. In 5 Patna 646 at p. 678 this verse is quoted and it is held that a widow can make a gift of a small portion of immoveable property to the bridegroom at the time of her only daughter's marriage. Vide 5 Lahore p. 70 also. In *Bhagwandeen* v. *Myna Baee* 11 Moore's I. A. 487 at p. 511 this verse is quoted. 8 Mad. 290 at p. 292 quotes this verse and v. 924.

922-923. When her husband is gone to heaven (is dead) the wife is entitled only to food and raiment if her husband was not separated or she may get a share in (ancestral) wealth till her death. (The widow) intent on serving her elders is entitled to enjoy the share allotted to her; if she does not serve (her elders), food and raiment should be assigned to her.

924-925. (A wife) who keeps (the honour of) the family would get the share of her husband, when he is dead, till her death; but she has no power for gift, mortgage or sale. (A widow) engrossed in religious observances and fasts, fixed in (the vow of) celibacy, always intent on restraining (her

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922-923. These verses mean that when the husband dies unseparated (or re-united) his widow may at the choice of the other members get a share in the joint family property or she may be given only food and raiment. ' Elders ' i. e. the father-in-law &c. Verse 922 is quoted in I. L. R. 2 Bom. 494 at p. 511 and at p. 582 (F. B.)

924-925. These verses do not absolutely forbid a widow from making a gift or sale of her husband's property; on tha contrary Kât. enjoins on her the duty of making gifts. As the V. M. says the prohibition as to gifts applies to gifts to bards &c. The Privy Council laid down in 8 Moo. I. A. 29 that 'for religious and charitable purposes and those which are supposed to conduce to the spiritual welfare of her husband ' a widow has very large powers of disposition. Verse 924 is referred to in *Narasimha* v. *Venkatadri* 8 Mad. 290 at p.292 and it is held that the restrictions on the widow's power apply to both moveables and immoveables and in *Bhugawandeen* v. *Myna Baee* 11 Moore's Indian Appeals p. 487 it was held that both properties are included in the text of Kāt. *Pandharinath* v. *Govind* I. L. R. 32 Bom. 59 refers to this verse and holds that a Hindu widow is not competent to make a gift of moveables inherited from her husband (p. 70). In I. L. R. 42 Bom. 136 both verses are referred to (at p. 143) and it was held that a gift by a Hindu widow of 4/5 ths of her husband's property for the religious benefit of her husband was not valid. Vide 41 All. 130 at p. 145. ' Even though sonless '— It was believed that one to whom no son was born did not go to heaven; vide Ait. Br. VII. 3 ' nāputrasya lokostiti &c. ', Tai. Sam. VI. 3. 10. 5 (about the three debts), Śatapatha Brāhmaṇa I. 7. 2. 1, Tai. Sam. I. 4. 46. 1 ' prajābhiragne

senses) and making gifts would go to heaven even though sonless.

926. The widow, if chaste, takes the wealth of her husband; in default of her, the daughter (takes the wealth) if she be unmarried.

927. Of a sonless man (the heirs) are declared to be wife of good family, daughters, on default of them father, mother, brother and (brother's) sons.

928. When a person dies separated (or in a state of separation) on default of sons, his father takes his wealth or his brother, or mother, or father's mother in order.

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amṛtatvam – aśyām. ' An exception was made in the case of those who observed a vow of perpetual student-hood. Compare Āp. Dh. S. I. 1. 4 29 and Manu V. 159–160 (where it is expressly said that a widow who observes perpetual celibacy after her husband's death goes to heaven even though sonless just as ancient sages who observed perpetual studenthood went to heaven without sons).

926. Compare Manu IX 130, Nār. p. 201 v. 50, Bṛ. p. 378, vv. 55-57 for the claims of the daughter. From Āp. Dh. S. II. 6. 14. 4 (duhitā vā) it appears that her claims were not clearly recognised in his day. In a competition between unmarried and married daughters, the unmarried were preferred; vide the well-known sūtra of Gautam 28. 22. It is to be noted that Kāt. does not expressly require chastity in the case of the daughter, as he does in the case of of the widow (before the latter can succeed as heir). In *Advyapa* v. *Rudrava* I. L. R. 4 Bom. 104 this verse of Kāt. is quoted (on p. 114) and it was held that the daughter was not debarred from inheritance on the ground of incontinence. Vide also 1 All 46 (F. B.). In 11 Bom 285 (F. B.) it was held that a daughter inheriting from her mother or father takes an absolute estate which on her death passes to her heirs, but this is not the law in Madras, Benares and Bengal. Vide L. R. 47 I. A. 213 at p. 223.

927. Compare Yāj. II. 135-136, Viṣṇu 17. 4-11 for the order among these heirs. There was great divergence of view on the order of heirs. Vide Gautama 28. 19, Āp. Dh. S. II. 6 . 14. 2-4. Kauṭ. p. 160 (who omits माता), Śaṅkha-Likhita (अथापुत्रस्य स्वर्यातस्य भ्रातृगामि द्रव्यं तदभावे मातापितरौ लभेतां पत्नी वा ज्येष्ठा । quoted in Mit. and Aparārka).

928. Compare Manu IX. 185 and 217 where the father, brothers, mother and father's mother are mentioned as heirs.

929. A wife who is full of evil deeds, who is immodest, who wastes property and who is given to adultery does not deserve (inherit) the wealth (of her husband).

930. Whatever a woman does that relates to (benefit in) future state (i.e. state after death) without the permission of her father, husband or son would become fruitless.

931. Heirless (property) goes to the king after keeping aside (wealth sufficient to provide) for the women, the servants, and the s'*rāddhas* (of the deceased); the wealth of a

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929. This verse is quoted in 1 All. 46 (F. B.) at p. 49.

930. Yāj. I. 85 says that father, husband and sons protect a woman respectively in her maidenhood, married life and old age and a woman has no independence. The same idea is expressed here. If a woman performs certain observances for the benefit of her soul after her death without the permission of the father and the rest, she does not reap the fruit of those acts.

931. Compare Nār. p. 202 v. 52 for a similar provision for the 'women' (strī). The Mit., V. M. and other works say that 'women' here means 'the concubines of the deceased' since a king cannot take the wealth when the wife is living. That the king was the ultimate heir and that the property of an heirless brāhmaṇa did not go to the king are propositions laid down by all ancient writers. Vide Baud. Dh. S. I. 5. 102 (तस्माद्राजा ब्राह्मणस्वं नाददीत परमं ह्येतद्विषं यद् ब्राह्मणस्वमिति), Manu IX. 189, Āp. Dh. S. II. 6. 14. 5, Gautama 28. 39-40, Vas. 17. 83-87 (who requires it to be given to those learned in the three Vedas and those who are virtuous); Viṣṇu 17. 13-14, Kauṭ. p. 161 (अदायादकं राजा हरेत् स्त्रीवृत्तिप्रेतकार्यवर्जमन्यत्र श्रोत्रियद्रव्यात् । तत् त्रैविद्येभ्यः प्रयच्छेत्). This verse is quoted in I. L. R. 2 Bom 573 at p. 608 and is the foundation of the right to maintenance of a concubine (against the heirs of the deceased) recognised in modern decisions. Vide I. L. R. 12 Bom. 26 (where it is held after quoting this verse that continued continence is a condition precedent to a concubine of a deceased person claiming maintenance); 26 Bom. 163 (where it was said that the concubine has no legal right against her paramour, but on the latter's death, she has a legally enforceable right against the heir if she continued to be a concubine up to the

brāhmaṇa learned in the Vedas (when there is no heir) should be assigned to other learned brāhmaṇas.

932. In the absence (of sons, grand-sons and great grand-sons or the wife) the re-united coparceners are declared to take the wealth of (deceased re-united coparceners) and separated kinsmen of (deceased separated kinsmen), they being persons who mutually inherit though they are not the descendants of each other.

(Gambling and prize-fighting)

933. One should not resort to gambling which inflames the passions and greed (of men), which engenders bad charac-

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death of the deceased and was continent afterwards). This last case was approved of in L. R. 53. I. A. 163 (=50 Bom. 604) where it was held that an *avaruddha* woman (a concubine) of the deceased can claim maintenance from his heirs out of the estate of the deceased, but it is not a condition that she should have resided in the same house with the deceased together with his wife and regular family. Vide I. L. R. 48 Bom. 203 (where a kept mistress whose husband was alive was not treated as a concubine entitled to maintenance from the heirs of her deceased paramour). 'The wealth of a brāhmaṇa etc.'- This direction of the ancient sages as to the wealth of a brāhmaṇa has not been respected in modern times. Vide *Collector of Masulipatam v. Cavaly Venkata* 8 Moore's Indian Appeals 500 at p. 527.

932. This verse is somewhat obscure. The translation is made according to V. C. and V. R; 'nirbījānyonyabhāginaḥ' is explained by V. C. as 'ते हि परस्परं निरन्वयापरभागभाज इत्यर्थः'.

933. Gambling is one of the most ancient vices. Ṛgveda X. 34 is a hymn which contains the lament of a gambler. There are numerous references to gambling in the Vedas; vide Ṛg. I. 41. 9; VII. 86. 6; Vājasaneya Saṁ. 30. 18 (akṣa-rājāya kitavam). Pāṇini (II. 1. 10, II. 3. 57-58, IV. 4. 2 and IV. 4. 19) in several sūtras explains words referring to gambling and mentions 'akṣa' (dice) and 'śalākā' as instruments of gambling. Āp. Dh. S. (II. 10. 25. 12-13) refers to gambling houses. Manu (IX. 223) defines gambling as that which is carried on with inanimate objects (like dice, draughts &c.) and 'samāhvaya' as that which is carried on by means of sentient beings (i. e. birds like cocks and animals like rams and bulls). Nār. p. 212 v. 1 and Bṛ p. 385 v. 3 make the same distinction. Manu IX. 224-227 condemns gambling and calls

ters, which is cruel, and causes loss of wealth to men.

934. Since strife is certain (to follow) from gambling just as poison (is sure to issue forth) from the mouth of a serpent, therefore the king should stop this vice in his country.

935. If it (gambling) has to remain (has to be allowed) he (the king) should allow it to be done openly with an (ornamental) arch erected near the door (of the gambling hall) in order that respectable people may not be mistaken (about its real nature) and he should make it yield revenue (tax).

936. The keeper of the gaming house should make the gambling go on and should himself pay to the king (the latter's) dues. He (the keeper) should take from the defeated party ten per cent as his profit.

937. The keeper should give to the winner his money (out of his own pocket) and he should recover from the defeated gambler within three fortnights or at once; there is no doubt (about this rule).

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upon the king to punish gamblers and vintners and to banish them from the kingdom; while Kauṭ (III. 20 p. 197 text) allows gambling under the supervision of the king's officers and Yaj. II. 199-203 also does the same and says that regulated gambling is helpful in detecting thieves. Bṛ p 385 v. 1 refers to this divergence of views between Manu and other legislators.

934. 'Since strife &c.'-compare Manu IX. 227, which is the same as Mahābhārata Udyogaparva 37. 19.

935. Gambling may be carried on secretly or openly. Even Yāj. II. 202 prescribes that those who carry on gambling secretly should be branded and banished; 'with an arch &c.' — that is, it had probably an arch with a sign-board and from its exterior, it must have been clear to everybody that it was a gambling den and not an ordinary habitation. Compare Bṛ. p. 386 v. 5 for gambling being allowed only if done openly.

936. Compare Nār p. 212 v. 2 (for a closely similar verse) and Bṛ. p. 386 v. 8, Yāj. II. 199; Kauṭ (III. 20 p. 198 text) allows only five per cent to the keeper, besides the hire for supplying gambling accessories and for water and accommodation. The last half may also mean 'that he should take 10 per cent as interest if the defeated party has not paid down the wager in cash'.

937. The reading 'kitavād dhana-saṁśaye' (he should recover at once when there is doubt as to whether the money will be forthcoming) is better.

938. Where (the throw) of a man playing with dice in gambling is the same as or double (of the previous throw) there the (former) gambler is the winner and his protection (from the other gamblers) is to be arranged for.

939. Or the gambler (himself), after giving to the king his share (of revenue) as declared, should carry on gambling openly. In this way he will be guilty of no fault.

940. The keeper of the gaming house should make the defeated gambler forcibly pay what (the defeated) has to pay in the same place (i.e. in the gaming hall) and not elsewhere; since the procedure (in gambling matters) entirely rests with the keeper of the gaming house.

941. A person ignorant (of gambling) if defeated (in gambling) should be released (from his liability), but one who knows gambling should not be released if he is defeated in secret (gambling); when one knowing gambling has lost his all (in a wager), he should not be made to pay his all.

942. In disputes (among gamblers), in (deciding on) victory, in the matter of the gain (to the winner), and as regards the means (i. e. dice) of those who are (alleged to be) playing with false dice, the keeper of the gaming house, if he is honest, is the final authority.

943 In the case of mlecchas, cāṇḍālas (lit. dog-eaters), rogues, gamblers, ascetics, the decision as to those who (are

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938. The translation of this verse is merely tentative. Compare a similar verse in Nār. p. 213 v.3.

939. This verse is an exception to the rule mentioned by Bṛ. p. 385 v. 2 that gambling should be carried on under the eye of a master of the gaming house. 'The gambler'- includes also the plural. 'No fault'—i. e. he will not be guilty of depriving the state of its revenue and of engaging in gambling unauthorizedly. Compare Nār. p. 213 v. 8 which is the same.

941. Compare Bṛ p. 386 v. 7.

943. The idea is that the king should not take upon himself to decide their disputes, but should assign that work to other gamblers etc. who alone are proper judges (and witnesses also) in such cases.

alleged to) have violated their conventions does not rest with the king.

(*Miscellaneous*)

944-946. Whatever was omitted in the preceding discourse (on the titles of law), and whatever is cut off from its proper context, what is taken from another system of knowledge and is not quite appropriate, what is stated at the close of the s'āstra (i. e. of the dharmas'āstra) by way of illustrations and occupies the position of being (more or less) a repitition :- those passages which are set forth in this way are called *prakīrṇaka.* The duties of kings, one's own duties, and disquisition on doubtful matters and what is omitted from the preceding discourse-all this is *prakīrṇaka.*

947-948. (Fixing) a proper share (of the produce)

Vide Yāj II. 202 (first half), Nār. p. 213. v. 4, Bṛ. p. 386 v. 6 for the same idea.

944.-946. There is some difference as to the exact meaning of 'prakīrṇaka'. Manu (VIII. 4-7) does not enumerate among his eighteen titles such a separate title as 'prakīrṇaka'. Yāj. does not expressly name the word nor does he define it. but according to the Mit. (and other digests) the last few verses (295-307) of his second chapter (on Vyavahāra) treat of 'prakīrṇaka'. This word literally means 'scattered about'. Nār. p 214 vv 1-4 sets out the subjects that fall under this head, the first of which is 'transgression of the king's commands' and the last is 'whatever is omitted from the discussion of the preceding titles of law' and Bṛ. p. 386 v. 1 says that *prakīrṇaka* comprehends those causes that are instituted by the king himself (and not by a private person). It is therefore that the Mit. (on Yāj II. 295) says that that judicial investigation which is started by the king himself is prakīrṇaka. Kāt. mentions only a few out of the thirteen subjects that Nārada enumerates. In verses 949-951 Kāt. mentions some of the topics that fall under prakīrṇaka according to Nārada. *Tantra* means 'siddhānta' (propositions propounded in a system of knowledge or philosophy). Compare Nyāyasūtra I. 1. 28-31. It is difficult to connect the accusatives in 'dharmān' in v. 946 and to say definitely what 'svadharma' here means. We should probably read 'rājdharmāḥ svadharmāśca' and 'svadharma' may be taken to mean 'the attributes of the soul'.

947-948 It is probable that the proper reading is 'ṣaḍbhāga' ($\frac{1}{6}$th of the produce). Kauṭ. (II. 15 p. 93) and Manu VIII. 307 distinguish between 'ṣaḍbhāga' and 'kara', though very often 'kara'

as the king's dues of subsidies (from vassals) and of tolls, what is to be paid at the pits, divulging (the secrets) of a battle or conspiring with thieves, assault on another's wife, desire to kill (i. e. attempt to kill) cows and brāhmaṇas, destruction of crops – these ten wrongs the king should himself look into (i. e. should start and investigate).

949 -950. Non-performance of *prāyas'cittas* (penances), transgression of (royal) commandments and arrests (*āsedha*), the obliteration (or destruction) of (the duties of) the *varṇas* and *ās'ramas* (the four stages of life), the prevention of the confusion of castes, (finding of) treasure-trove, (accumulation

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simply means 'tax'. Kauṭ (II. 21 and 22) has two chapters on the superintendent of tolls (called śulkādhyakśa) and on the levying of tolls. According to ancient ideas the king was entitled to one-sixth of all wealth (which was called his 'vetana', wages, in S'āntiparva 71-10) and also of the merit (*puṇya*) of his subjects. Vide Baud. Dh. S. I. 10. 1 (षड्भागभृतो राजा रक्षेत्प्रजाम्), Gautama. X. 24 (6th was the maximum), Vas. I. 42-44 (राजा तु धर्मेणानुशासन् षष्ठं धनस्य हरेत् । अन्यत्र ब्राह्मणात् । इष्टापूर्तस्य तु षष्ठमंशं भजतीति), Manu. VII. 130-132 and VIII 305. It is difficult to say what 'garta' (pit) means; probably the reference is to mines. Vide Kaut. (II. 12) on mines as a royal preserve and also Viṣṇu 3-55. Under Sec. 69 of the Bombay Land Revenue Code, all mines and minerals belong to Government, except where Government has alienated its rights. For ten *aparādhas* mentioned by Pitāmaha vide note to v. 27 above. For including the fines for ten *aparādhas* in royal grants vide grant of Dhruvasena of Valabhi (619–20 A. D.) in E. I. vol. I. p. 85 and also in E. I. I. 55, E. I. vol. VI p. 196. According to Nārada quoted in Sm. C. III. p. 63 transgression of commands, killing a female, confusion of castes, illicit intercourse with another's wife, robbery, pregnancy from a man other than the husband, abuse, insulting (or obscene) language, assault and abortion were ten aparādhas. Vide Nār. p. 234 vv. 11-12.

949-950 For 'āsedha' vide note on v. 104. It would be better to read 'kopanam' (fomenting or provoking) for 'lopanam'. ' Treasure-trove '—the ancient Hindu Law on this point was that the finder of treasure-trove if he informed the king was to get one sixth and the rest went to the king, that if the finder was a learned brāhmaṇa he could keep the whole and that the king was to seize the whole and also inflict a fine if the finder did not inform the king.

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of) wealth without useful employment of it, (sudden) accession of riches in the case of an indigent man, — after clearly ascertaining these through spies, the king should himself employ preventive measures.

951--952. Matters on which no express provisions are found in the śāstras, the wranglings of disputants about the burden (or means) of proof, fomenting (dissensions or hatred) among the constituent elements of the state, the mutual conventions (to be observed by the constituent elements of the state), whatever actions not permitted by the śāstras come into vogue among the subjects — these the king should (try to) settle (or reduce) by such expedients as conciliation, division &c.

953. (The king) should employ the punishment of words towards his allies (or friends), the punishment in the word ' fie ' in the case of ascetics. Whatever is expressly declared

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Vide Gautam X. 43-45, Vas. III. 13, Manu VIII. 35-39, Yāj II. 34, Viṣṇu III. 56-64. The Indian Treasure-trove Act (VI of 1878) requires the finder to give notice in writing to the Collector of the District (sec. 4) and prescribes that on failure to give such notice he will forfeit the treasure and be punishable with one year's imprisonment or fine or both. 'Accession of riches etc.'—the king was to investigate how a poor man at once became rich (whether it was by theft or other offences).

951-952 'Matters etc.'-compare Manu XII. 108 (where also the word 'anāmnāta' is used). The reading should be 'kriyāvādāśca'. The meaning of 'kriyāvādāśca vādinām' is not quite clear; 'constituent elements of the state'-there are seven such elements (prakṛtis) according to Manu IX. 294 (the king, the ministers, the country, the treasury, the fortified capital, army and allies are the seven) and Kaut. (VI. 96 p. 257); 'whatever actions etc' — compare Yāj. I. 361; expedients' - of royal policy are four ; vide notes on v. 192 above and Manu VII. 107-109.

953. Vide notes above on v. 481 where the four kinds of daṇḍa,

(in the śāstra for a certain offender) that should be done in his case ; if nothing is said (in the śātra) then he (the king) should well prescribe (the proper punishment).

954. He who succeeds in his cause by means of false evidence (document) or by a false seal, should be made to pay the highest amercement.

955. Those who are addicted to the pastimes (specially reserved) for kings, those who betake to the avocation of the king, those who are given to speaking what is distasteful (to the king) should be awarded corporal punishment.

956. Those who imitate the king in his appearance (dress &c.), those who become spectators (when they should be doing their duties), those who recover more taxes (than are due) and those who steal the king's wealth should be punished with various corporal punishments.

957. —Same as 486 above.

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viz. *vāk*, *dhik*, *dhana*, and *vadha* are mentioned. Compare Bṛ p. 387 vv. 4–8.

954. Vide Manu IX. 232, (who prescribes death for manufacturing a false royal edict), Yāj. II. 295 (who prescribes highest amercement for making unauthorised alterations in royal edicts). Śaṅkha—Likhita (कूटशासनप्रयोगे राजशासनप्रतिषेधे कूटतुलामानप्रतिमानव्यवहारे शारीराङ्गच्छेदो वा' quoted in V. R. p. 369).

955. 'Pastimes etc.'– we have to understand 'without the permission of the king' here and in the next clause ; 'betake to the avocation of the king' i.e. those who take upon themselves the function of protecting the people (without the king's permission) ; 'those who are given to &c.' — the punishment is prescribed for persistent indulgence in uttering what is distasteful to the king (viz. praising his enemies &c). Compare Yāj II. 302-303 for punishment for persistent utterance of what is distasteful and riding the king's own horse or sitting on his throne.

956. 'Spectators'— those who look on dancing &c. that is going on before the king neglecting their duties as servants of the king ; 'those who recover' — The V. R. p. 369 explains that those who take fine in excess of those declared by the king are meant.

958. (The king) should ask the culprit when (caught) red-handed the reason why he committed the offence and then having carefully brought the guilt home to him, he (the king) should prescribe the punishment.

959 When an offence is committed by any one, who is well-conducted, through helplessness or ill-luck, in that case (the king) should not prescribe a punishment.

960. Kings who prescribe proper punishments are honoured even by gods; (the king) should award the first part of a fine for only beginning (an offence), the middle part for being in the midst of doing it; the (full) punishment prescribed (in the texts) for an offence is to be awarded when the whole offence is completed.

961. Kings and especially ministers would get this (hell) by not punishing sinners and by punishing those who bow (to the law).

962. Those who are dependent on another, and those who are reduced to slavery — these are said to be not their own masters. Beating is (the only) punishment in their case.

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958. 'Sacihnam' - may also mean 'after branding on the forehead'. For various grave offences branding on the forehead was prescribed by Manu IX. 237 and 240.

959. 'Through helplessness or ill-luck' i.e. through fear or through mistake.

960. When a completed offence is constituted by several acts each of which is punishable, this verse prescribes a fourth part of the fine for the completed offence, if only the first of the several acts constituting the complete offence is perpetrated; half the punishment is prescribed when half of the acts constituting the full offence are committed.

961. Read 'enam' for 'evam', which latter makes no sense; 'bow to the law' i. e. who are on the right path and so do not deserve punishment. Compare Manu VIII. 128 (who speaks of hell for doing this).

962. 'Dependent on another' —such persons as wife, sons &c.; 'beating' —they are not to be fined, but only corporal punishment is to be inflicted on them.

963. Beating (whipping), imprisonment and making him a laughing stock — these are the punishments (proper) for a slave ; monetary punishment is not prescribed (for him).

964. The man who deserves capital punishment should be made to pay one hundred suvarṇas (as fine in lieu of death sentence) ; one deserving of having a limb cut off (should be made to pay) half of that (i. e. 50 suvarṇas) ; one deserving banishment (should be made to pay) twenty-five (suvarṇas).

965. In the case of offenders who are of high family or are respectable or possessed of good qualities, but who are not well off, (the fine should follow) the above proportions ; or having seized their all (when they are not well-off) the king should quickly banish these from the capital.

966. Those who have no wealth should be kept in jail; (the king) should not carry out the death sentence. In the case of all offenders, special procedure (as to punishment) should be observed in accordance with the (rules of *s'āstras*).

967. A brāhmaṇa who is guilty of an offence punishable with death or cutting off a limb should sit in a jail without having to do anything. He is (in that way) prevented from doing bad acts. That (keeping him in a jail without allowing

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963. 'Making him &c.'— i.e. tonsuring his head or making him ride an ass.

964. For *suvarṇa* vide notes to v. 494 ; compare Bṛ. p. 388. v. 12 for a very similar verse.

965. 'Should follow &c.' —that is if a hundred suvarṇas cannot be had, then a reduced fine may be awarded.

966. This seems to ordain that death sentence should be as rare as possible.

967. This refers to a brāhmaṇa offender who was well-conducted and devoted to his duties till then ; he should be confined in a jail and should not be allowed to do his duties. If we read 'tadākarma' -the sense becomes easier ; 'he is then not able to do his usual religious duties'. Compare Bṛ. p. 388 vv. 10-11 (who forbids capital punishment for a brāhmaṇa and recommends shaving,

him to do his religious duties) becomes the proper punishment for him.

968. (A brāhmaṇa) who gives false evidence should be banished, a brāhmaṇa who accepts a gift from a sinful person should be proclaimed (to all people), one who is guilty of cutting a limb of another should be deprived of the performance of his religious duties by being sent to jail.

969. In the case of those who are guilty of offences similar to these, similar punishements should be prescribed (by the king). In the case of minors, old men, diseased persons and women, there is no punishment but that of beating.

970. A king who follows the law should make (a woman offender) pay a fine out of her strīdhana ; but a woman guilty of an offence who has no wealth deserves beating as punishment.

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branding and banishment, instead) Manu VIII. 379, Gautama 12. 43-44, Baud. Dh. S. I. 10. 17-18.

968. Manu. VIII. 123 and Yāj. II. 81 prescribe banishment for a false brāhmaṇa witness and monetary fine for false witnesses of other castes. Manu II. 185. enjoins upon a brāhmaṇa brahmacārī not to beg at the houses of grave sinners. Manu X. 76 says that ordinarily a brāhmaṇa was to accept gifts from a pure person, while X. 103 allows him to accept gifts from censurable people in times of adversity; but X. 109 says that gifts from unworthy persons are worse than even teaching those who should not be taught or officiating as priest for those for whom it should not be done. Nārada p. 220 v. 40 enumerates people from whom gifts should not be accepted.

969. This verse has reference to offences similar to those mentioned in v. 781 above. Compare verse 487 for lesser punishments in the case of women. Gautama (2. 48), Manu (VII. 16 and VIII 126) and Yāj. I. 368 enjoin that time, place, ability, age, learning should be looked to in awarding punishment. Manu IX. 230. prescribes that these persons should be beaten with ropes &c.

971–97. What is unjustly acquired (by the king) should be consigned to the treasury; the treasury should be used for doing (meritorious) works; (otherwise) the king's undertakings will be destroyed; a wise (king) should not bring about destruction (of himself). All that wealth that arises from fines should be bestowed on (learned) brāhmaṇas and after transferring the kingdom to his son, the king should betake himself to the forest.

973. The king being always intent on observing the rules (of the śāstra) should act in this manner and should employ all his servants for the welfare of the people.

971–72. Verse 971 cannot be easily construed. It refers to fines wrongly imposed. Yāj. II. 307 says that the king should offer to Varuṇa (who is the king of kings) 30 times the fine wrongly imposed by him and should then distribute it among brāhmaṇas. Manu (IX. 244–45) asks the king to throw into rivers or to distribute among brāhmaṇas all fines imposed upon great sinners and not to put them in his treasury through greed. Manu VI. 1 ff speaks of the order of forest hermit (*vānaprastha*).

APPENDIX A

List of Cases and Law Reports referred to in the notes.

The figures refer to the verses. The abbreviations employed are as follows:—

Moo. I. A.—Moore's Indian Appeals.
I. A.—Law Reports, Indian Appeals.
I. L. R. Indian Law Reports.
Bom.—Indian Law Reports, Bombay Series.
Bom. L. R.—Ratanlal's Bombay Law Reporter.
Bom. H. C. R.—Bombay High Court Reports Series.
Cal.—Indian Law Reports, Calcutta Series.
P. J.—Printed Judgments of the Bombay High Court.
All.—Indian Law Reports, Allahabad Series.
Mad. H. C. R—Madras High Court Reports.
Patna—Indian Law Reports, Patna Series.
Patna L. J.—Patna Law Journal.
Lahore—Indian Law Reports, Lahore Series.

Advyapa v. *Rudrava* 4 Bom. 104-v.926.

Bhagavanlal v. *Bai Divali* 27 Bom. L. R. 633-vv. 905-906.

Bhagirthibai v. *Kahnojirao* 11 Bom. 285 (F. B.)-vv. 905-6.

Bhagavati Shukul v. *Ram Jatan* 45 All. 297-v. 858.

Bhau v. *Raghunath* 34 Bom. 229-vv. 905-6.

Bhugwandeen v. *Mynabee* 11 M.I-A. 488, p.512-vv 894, 921, 924-25.

Collector of Madura v. *Mootoo Ramlinga* 12 M. I. A. 397-vv. 863-864.

Collector of Masulipatam v. *Cavaly Venkata* 8 Moo I. A. 500-v.931.

Collector of Thana v. *Krishnanath* 5 Bom. 322-v. 882.

Collector of Thana v. *Hari Sitaram* 6 Bom. 546 (F.B)-v. 882.

Debi Pershad v. *Thakur Dial* 1 All. 105 (F.B.)-vv. 855-56

Durgadat v, *Ganesh* 32 All. 305-v. 867.

Fattesangji v. *Dessai Kallianraiji* 1 I. A. 31-v. 882.

Jatindra Mohan v. *Ghanashyam* 50 Cal. 266-v. 882.

Khushalchand v. *Mahadevgiri* (1875) P.J. 276-v. 882.

32 All. 305-v. 867
38 All. 118. vv. 852-853
41 All. 130-vv. 924-25
45 All. 297-v. 858
46 All. 95(P C)-v. 560
48 All. 518(P.C.)-v. 560
50 All. 532-vv. 852-853

4 Patna 478-v. 560
5 Patna 646-v 921
10 Patna 94-v. 534
4 Patna L J.-v. 534
2 Lahore 40-v. 867
5 Lahore 70-v. 921

APPENDIX B.

List of important and technical Sanskrit words occurring in the text of Kātyāyana. The figures refer to verses.

Abhiyoktā, complainant or plaintiff 121

Abhiyukta, accused or defendant, 121

Ācarita, sitting *dharna* at the door of a debtor, 586

Ādhibhoga, taking profits of pledge or mortgage in lieu of interest, 501

Adhyagni, kind of strīdhana, 895

Adhyāvahanika, kind of strīdhana 896

Āgama, title or source of title 317

Āhūta-prapalāyī, party absconding after summons, 202

Ājñākraya, sale of land by king for state revenue, 701, 704

Akramoḍhā, a woman married in an improper order, 863

Ākula, making no sense 185

Anākālabhṛta (a slave) maintained during a famine, 731

Aṇḍikā, same as Kārṣāpaṇa, in Panjab, 494

Anirdiṣṭa, 520

Anugama, certainty that there is no title, 321

Anuśiṣṭa, decision on testimony of witnesses 495

Anvādheya, gift subsequent made to a woman, 899-900

Anvādhi, delivery by bailee to another for handing over to the bailor, 611

Anvāhita, ,, 592

Anyakṛta, an attested writing, 249

Anyārtha, irrelevant reply 181

Anyavādī, one who changes his pleading 202

Aparādha, matter investigated suo motu by king 948

Aprasiddha, ununderstandable reply 176

Āpta, one who speaks the truth 347

Āpta 361

Arthin, plaintiff or complainant 89

Asāra, absurd (reply) 186

Āsedha, restraint on or arrest of suitor 105

Aślīla, indecent 769, 771

Ātatāyin, desperate man, felon, 803-804

Atibhūri, too wide reply 179

Ātyayika, matter of an urgent nature 365

Avakraya, transfer by a bailee 711

Avyāpaka, not meeting thoroughly, evasive 182

Bhogalābha, a kind of interest 500

GENERAL INDEX

Words included in appendix B have generally been omitted. Sanskrit words and proper names have been put in italics; figures refer to the verses; *n* refers to the notes on the verses. No references are given to works like the smṛtis of Manu, Yājñavalkya, Nārada, Bṛhaspati and like the Mitākṣarā, the Vyavahāra-mayūkha, since they are quoted on almost every verse.

